Acta Sanctae Sedis

Acts of the Holy See

Holy See; Vatican

An English translation of the Latin edition
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[*Latin ed. p. 1*]

ACTS OF THE HOLY SEE, CONCISELY COMPILED AND ILLUSTRATED, THROUGH THE STUDY AND CARE OF VICTOR PIAZZESI, DOCTOR OF BOTH LAWS, OR: Legal and more solemn acts emanating immediately from the Supreme Roman Pontiff; acts which, meanwhile, have been publicly promulgated, whether they be Decrees, Instructions, Responses, or other similar matters; especially, expositions and resolutions of cases from various Sacred Congregations of Cardinals, carefully compiled to promote an accurate understanding and observance of ecclesiastical law; and finally, other legal matters, by which those acts which may present a difficulty are suitably explained, or which further advance knowledge of the law; for the benefit of those who diligently strive to understand the laws of the Church, and in the governance of the Christian flock, or in upholding the Lord's vineyard. Volume XXX. ROME, FROM THE POLYGLOT PRINTING PRESS OF THE SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH, 1897-98. Reprinted with the permission of Libreria Editrice Vaticana. JOHNSON REPRINT CORPORATION. JOHNSON REPRINT COMPANY LTD. 111 Fifth Avenue, New York, N.Y. 10003. Berkeley Square House, London, W1X6BA.

[*Latin ed. p. 3*]

3. ENCYCLICAL LETTER from Our Most Holy Lord Pope Leo XIII, Concerning the Secular Anniversary of Saint Peter Canisius. It is both useful and fitting for the Church Militant that those who, through outstanding virtue and piety, have been raised to the glory of the Triumphant Church, should have their memory frequently invoked through solemn observances. For the signs of ancient honor are renewed in the remembrance of sanctity, which is always opportune, but especially salutary in times hostile to virtue and faith. And this year, by the grace of divine providence, it is granted to Us to rejoice in the completion of the third century since the death of Peter Canisius, a most holy man, who considered nothing more important than to stir up the minds of good men with those arts by which he so happily served the Christian commonwealth. Indeed, the present age presents certain similarities to the time in which Canisius lived, when the desire for novelty and the progress of a more abundant doctrine were followed by a great weakening of faith and the perversion of morals. That pestilence, as well as all others, that man, after Boniface, the Apostle of Germany, diligently sought to repel, not only through opportune sermons or the subtlety of debate, but especially through schools established and excellent books published. Many, following his illustrious example, even from your own ranks, with the same weapons against that most formidable host, have never ceased to defend the cause of religion and its dignity, and to pursue with fervent zeal

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the most noble disciplines, pleasing and approved by the Roman Pontiffs, for whom it has always been a most careful concern to maintain the ancient majesty of the liberal arts, and to foster the daily increase of all humanitas. And it is not hidden from you, Venerable Brothers, that what has been most dear to Us is the sight of youth being properly and healthily educated, and to that end, as far as possible, we have looked everywhere. Now, we gladly seize this opportunity, placing before the eyes of those who serve Christ in the camps of the Church, the example of Peter Canisius, a valiant leader, so that, considering that the arms of doctrine must be joined with the arms of justice, they may more vigorously defend the cause of religion and be more successful. How great a task that most devoted man of the Catholic faith undertook, having before him the cause of the sacred and civil commonwealth, is easily apparent to those who behold the face of Germany at the beginning of the Lutheran rebellion.

[*Latin ed. p. 4*]

4. ENCYCLICAL LETTER. With morals altered and collapsing more and more each day, access to error became easy; and that error itself matured to bring about the ultimate ruin of morals. Hence, gradually, more and more people departed from the Catholic faith; soon, the evil contagion spread throughout almost all provinces; then, people of every condition and fortune were infected, so that in the minds of many, the opinion arose that the cause of religion in that empire had been reduced to its utmost limits, and that scarcely anything remained to remedy the disease. And the matter was plainly at a critical point, unless the present aid of God had been present. Indeed, there remained in Germania men conspicuous for their study of the ancient faith, doctrine, and religion; there remained the princes of the houses of Bavaria and Austria, and especially the King of the Romans, Ferdinand of that name, to whom it was firm to defend and protect the Catholic cause with all their strength. But God added a new and far more powerful support to the beleaguered Germania, by opportunely bringing forth, at that time, the Society of Loyola's Father, to which Peter Canisius gave the first name among the Germans. — It is certainly not appropriate here to recount in detail the actions of this man of exceptional sanctity; how he sought to heal his homeland, torn by dissension and sedition, and to restore harmony of mind and the old concord; with what zeal he entered into the contest of disputation with the masters of error; with what sermons he stirred up the minds of the faithful; what hardships he endured; how many regions he traversed; what grave missions he undertook for the sake of the faith. Truly, if we should direct our attention to the weapons of that doctrine which he constantly employed, how apt, how prudent, how opportune! After having returned to Messana, where he had gone to teach, he soon devoted himself with great zeal to teaching sacred disciplines in the academies of Coloniae, Ingoldstadii, and Vienna, where, holding the

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position of royal professor, he opened the minds of the Germans to the magnitude of Christian scholastic theology. Since at that time the enemies of the faith most vehemently abhorred this, because it was based on the most solid Catholic truth, he endeavored to establish this method of study publicly in the lyceums and in the colleges of the Society of Jesus, to which he himself contributed only with zeal and industry. Nor did he shrink from descending from the heights of wisdom to the beginnings of literature, and from undertaking the education of boys, even writing literary books and grammars for their use. Just as he often returned from the princely courts, to which he had delivered orations, to preach to the people, so, when he had written greater works, whether about...

[*Latin ed. p. 5*]

He devoted his efforts to composing small books, either to strengthen the faith of the people, or to stir up and foster piety. It is remarkable how much benefit resulted from the publication, by himself, of the *Summa* of Catholic doctrine, a dense and weighty work, distinguished by the elegance of its Latin, and not unworthy of the style of the Church Fathers. This excellent work, which was received with great acclaim by learned men in almost all the kingdoms of Europe, is surpassed in importance, not in utility, by two catechisms, written by him for the use of the uneducated. One was intended to instill religion in children, the other to instruct adolescents who were engaged in literary studies. Both, when first published, were received with such favor by Catholics that they were almost universally used by those who taught the elements of the Christian faith, and were not only used in schools, as a sort of nourishment for children, but were also publicly explained in churches for the common benefit. As a result, Ganysius was for three hundred years considered the common teacher of the Catholics of Germany, and it came to pass that for the common people, to know Ganysius meant to hold fast to the Christian truth. These documents of the most holy man sufficiently indicate the path that all good people should follow. We know, Venerable Brothers, that the praise of your nation is great, that you wisely use your talents and studies to promote the honor of your homeland, and to secure private and public benefits. But it is of the utmost importance that whatever wisdom and goodness there is among you should be devoted to religion; that all the light of intellect, all the resources of literature, should be directed towards its adornment and protection; and that, with the same purpose, whatever is beneficial anywhere, whether through the advancement of the arts or the progress of learning, should be immediately grasped and embraced. For if there has ever been an age that required the greatest abundance of doctrine and learning for the defense of the Catholic cause, it is certainly our own age, in which a certain momentum, almost a rush, towards all things offers an opportunity for the enemies of the Christian name to attack. Therefore, all

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forces must be brought to bear to withstand this onslaught; the ground must be preempted; and the weapons must be wrested from the hands of those who seek to sever all ties between the divine and the human. It will be perfectly permissible for Catholic men, with such resolve and with the instruction that is fitting, to demonstrate that the divine faith does not at all abhor human culture, but is, as it were, its summit and its pinnacle; that it is,

[*Latin ed. p. 6*]

6. ENCYCLICAL LETTER: Even those things which appear to be widely separated or even contradictory can, with friendship, be harmonized with philosophy, so that one may illuminate the other more and more: nature is not an enemy, but a companion and minister of religion; from this source, not only is all kinds of knowledge enriched, but also much strength and life is derived for letters and other arts. How much ornament and dignity is added to sacred doctrines from even profane disciplines can easily be understood by anyone who knows human nature, and who is more inclined to those things which pleasantly move the senses. Therefore, among nations which above all others commend humanity, there is scarcely any trust in unrefined wisdom, and it is most neglected by the learned, who prefer those things which have no form or appearance. We owe a debt to the wise, no less than to the foolish, so that while we stand in battle with the former, we must raise up and strengthen the latter. And here, indeed, the field of the Church is opened most widely. For, as soon as, after long bloodshed, the spirit returned, which the bravest men had sealed with their blood, the same was illuminated by learned men with their ingenuity and science. In this praise, the Fathers conspire first of all, indeed, with struggles, so that nothing more valiant could be done; but in speech, they are mostly learned and worthy of the ears of the Romans and Greeks. Their doctrines and eloquence, like spurs, excited many to throw themselves entirely into the study of sacred things, and they gathered such a vast inheritance of Christian wisdom, in which people of the Church in every age could find where they might either uproot old superstitions or overthrow new portents of error. This truly abundant supply of teachers has been poured forth by no age, not even that most beautiful one, which, subjected to the ravages of barbarians, returned to neglect and oblivion: so that if those ancient wonders of the human mind and hand, if those things which were once held in the highest honor among the Romans or Greeks, have not entirely perished, all of this must be attributed to the labor and industry of the Church. And if so much light is added to religion from the study of doctrine and the arts, then those who have devoted themselves entirely to these things must use not only the skill of thinking, but also the skill of acting, lest their own knowledge and learning seem barren. Therefore, let the learned bring their studies to the benefit of the Christian republic, and let their private leisure be devoted to

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the common good, so that even their own...

[*Latin ed. p. 7*]

ENCYCLICAL LETTER 7. The knowledge [of divine things] should not seem to be begun in some way, but rather should be joined with the activity of things. This activity is most clearly seen in the education of youth; and indeed, this matter is so important that it requires the greatest effort and care. Therefore, We earnestly exhort you, Venerable Brothers, to diligently strive to maintain schools in the integrity of the faith, or, if necessary, to restore them, whether those established by the ancients or those recently founded, not only for children, but also for those called "intermediate" and those called "academic." And may other Catholics in your regions strive and endeavor to ensure that in the education of young people, their rights and the rights of the Church are protected. – In this matter, the following must be carefully considered. First, that Catholics should have schools, especially for boys, that are not mixed, but everywhere their own, and that the best and most approved teachers should be chosen. For it is full of danger when a school is either corrupt or has no religion, which we often see happening in the schools we have mentioned as mixed. And it is not easy for anyone to believe that piety can be separated from instruction without harm. Indeed, if no part of life, whether public or private, can be exempt from the duty of religion, much less can the age of youth, which is inexperienced and full of fervor, and situated amidst so many temptations, be spared from this duty. Therefore, he who institutes knowledge in such a way that it has nothing connected with religion, corrupts the very seeds of virtue and honor; he prepares not a defense of the nation, but a plague and ruin of the human race. For what, without God, can such an education do to retain young people in duty, or to recall those who have already strayed from the right path of virtue and are rushing headlong into the precipice of vice? It is also necessary not only to teach young people about religion at certain hours, but that the entire education should be imbued with the spirit of Christian piety. If this is lacking, if this sacred breath does not permeate the minds and hearts of teachers and students, little benefit will be derived from any instruction; often, great harm will result. For each discipline has its own dangers, and it is difficult for young people to avoid these dangers unless some divine restraints are instilled in their minds and hearts. Therefore, it must be carefully guarded that what is the head, namely, the cultivation of justice and piety, does not be relegated to secondary importance; that youth, constricted by such things, does not expend all its energies only on those things that are before its eyes; that while teachers are diligently engaged in instruction, they do not...

[*Latin ed. p. 8*]

8. Let those who concern themselves with worldly affairs and whose

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syllables and phrases are polished, be far from true wisdom, the beginning of which is the fear of the Lord, and whose precepts ought to be conformed to all aspects of life. Therefore, let the pursuit of knowledge always be accompanied by the care of cultivating the soul; and let all disciplines, whatever they may be, be thoroughly informed and dominated by religion, and let them be so permeated by its majesty and sweetness, that they leave a lasting impression on the minds of the young. Indeed, it has always been the purpose of the Church that all branches of study should be directed towards the religious upbringing of the young; therefore, this discipline must not only have its proper place, and a prominent one, but no one should be entrusted with such a weighty task who has not been judged worthy of it by the Church itself and approved by its authority.

But religion does not demand its rights only from the schools of children. There was a time when the laws of each academy, especially the *Parisiensis*, stipulated that all studies should be so adapted to theology that no one would be judged to have attained the height of wisdom unless he had received the laurel of that discipline. Moreover, Leo X, the restorer of the Augustan age, and other Pontiffs who preceded Us, desired that the Roman academy and other institutions of learning, which they call universities, should be firm fortresses, where young men would be taught under the guidance and auspices of Christian wisdom, when impious wars raged against religion. This method of study, which placed God and sacred things first, bore abundant fruit; certainly, it ensured that young men so educated would better persevere in their duties. This same fortune will be repeated in you, if you strive with all your might to ensure that in the schools which you call secondary schools, in gymnasiums, lyceums, and academies, your religion is respected.

However, let it never be the case that even the best plans fall to ruin and fruitless labor is undertaken, if the agreement of minds is lacking and harmony is absent in action. For what effect can divided forces have against the united attack of enemies? Or what good can the virtue of individuals achieve, where there is no common discipline? Therefore, we earnestly urge you that, setting aside contentious disputes and the contentions of factions, which can easily divide minds, all may agree with one voice on the care of the good of the Church, that they may join forces in this one endeavor and offer the same will, striving to preserve the unity of spirit in the bond of peace (1).

(1) Ad Eph. iv, 3.

[*Latin ed. p. 9*]

ENCYCLICAL LETTER 9. This has urged us to remember the memory and commemoration of that most holy man; may his illustrious examples remain in your hearts, and may they excite in you a love of wisdom, which never ceases to care for the salvation of men and the preservation of the

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dignity of the Church. We are confident, Venerable Brothers, that you, for whom this concern is paramount above all others, will have associates and partners in this glorious work, many of whom are most learned men. But those who are entrusted by the providence of God with the noble task of educating youth will be able to achieve the greatest results, as if they held this precious thing in their own bosom. For if they remember what pleased the ancients, that knowledge, if it is separated from justice, ought rather to be called cunning than wisdom, or, better still, if they fix in their minds what the Sacred Scriptures affirm, that all men in whom the knowledge of God is not present (1), will learn to use the weapons of learning not so much for private advantages, as for the common good. They may hope to reap the fruits of their labor and industry, the same fruits that Peter Canisius achieved in his former colleges and institutions, namely, that young men may be found docile and obedient, adorned with virtuous morals, far removed from the examples of wicked men, equally concerned with knowledge and virtue. In those in whom piety has taken deeper root, there will almost disappear the fear that they will be infected by the perversity of opinions or that they will deviate from their former virtue. In these, the Church, and in these, civil society, will place the best hope for future citizens, whose counsel, prudence, and learning may preserve the order of civil affairs and the tranquility of domestic life. What remains, let us offer prayers to God, the Most High, who is the Lord of all sciences, and to His Virgin Mother, who is called the Seat of Wisdom, through the intercession of Peter Canisius, who has so well deserved the praise of the Church Catholic for his teaching, that the wishes which we have conceived for the growth of the Church and for the good of youth may be fulfilled. Animated by this hope, we impart to you individually, Venerable Brothers, and to your entire clergy and people, the Apostolic Blessing, a pledge of heavenly gifts and of Our paternal benevolence. Given at Rome, near St. Peter's, on this day, August 1, 1897, in the twentieth year of Our Pontificate. LEO XIII, POPE. (1) Sap. xi, 1.

[*Latin ed. p. 10*]

10. Letters from the Most Holy Lord to His Eminence, Cardinal Oreglia, Dean of the Holy College, and to other Most Eminent Cardinals and Bishops, who were present in the month of May at the solemn canonization of Saint Peter Fourier and Saint Anthony Zaccaria. We desire, therefore, to address you with these letters, in a manner befitting your dignity; but we wish to be understood by all Venerable Brothers, Cardinals and Bishops, whose presence, in the last month of May, brought us great joy at the most sacred ceremonies, and who, on that occasion, delivered to Us letters full of duty and excellent goodwill. Indeed, We have clearly perceived the sentiments of your hearts, Venerable Brothers, as being most devoted to Our desires, and, as it ought to be, to the Apostolic See; and We are pleased

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to acknowledge this. It is, however, greatly to be hoped, especially in this time, that this devotion should be more frequently manifested, namely, that all those who are engaged in the administration of Christian affairs should be united with the Supreme Pontiff in obedience, mutual charity, and harmony of purpose, in Whom Jesus Christ has placed both the summit of authority and the principle of unity. In this matter, indeed, many from the Christian multitude agree with you; for We see that it happens, not without divine counsel, that the love for the Apostolic See is aroused all the more on one side, as it is opposed with greater vehemence on the other. It is greatly necessary, through your authority and diligence, to foster and promote this popular love, in which, as it were, the beginning and a certain pledge of future salvation is seen; and We are certainly aware that this will be constant. – We have greatly appreciated the piety and desire of you concerning the reconciliation of the Eastern nations, and all those who dissent from us in faith. We have laid the foundations of a great work, and We trust that, with God's help, they will one day be brought to maturity, for He has willed that His Church should be the whole complex of the human race, and it is in His power to draw the hearts of men, as He wills, and to move them, with their freedom intact, whither He wills. Pray earnestly that He may deign to bring back such a multitude of people from the error of their opinions to the truth; and, for your part, strive to assist Our efforts through all the means of Christian charity. – Among the many duties and other tasks that accompany the apostolic office, it becomes increasingly apparent that the Apostolic See must be restored to that very condition in which divine providence has prepared it. Hope...

[*Latin ed. p. 11*]

LETTER 11. We have placed our greatest hopes in God, for the sake of His Church; and meanwhile, as long as those inconveniences and difficulties persist, we will, without any doubt, continue to defend the authority given to the Pontiff, and to reclaim those things which most safeguard our liberty. We impart, through Christ our Lord, the Apostolic Blessing to you, Venerable Brothers, and to your people and clergy, as a pledge of heavenly favors and a witness of our paternal benevolence. Given at Rome, near Saint Peter, on the 5th of July, in the twentieth year of Our Pontificate. LEO XIII, POPE.

FROM: CONGREGATION OF THE COUNCIL OF CONCORDIA. REMOVAL FROM THE PARISH. February 20, 1897. Session 21, Chapter 6, Concerning Reform. SUMMARY OF FACTS. In the town commonly called Vigonovo, in the diocese of Concordia, the parish obtained a benefice in November 1887. Valentinus Maniago, transferred from another parish in the locality of Rivarotta, held the office of parish priest. The parish priest, Maniago, had an assistant, or chaplain, the priest Matthew Bressan, who had for many years been the prefect of the parish church's fabric, and who,

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having been chosen for the vacant benefice, served as the spiritual administrator. These two priests, although endowed with good morals, appear to be so different in temperament that they could not long walk together in harmony in the house of God; indeed, the judicial sentence of the Concordian court states that one, namely Bressan,

[*Latin ed. p. 12*]

12. GONGORDIEN. Ibi erant duo sacerdotes: unus habebat animum ardentem et praecipitem; alter, nempe parochus, erat rudis et tenacissimus in proposito. Ex hoc, statim ortae sunt dissensiones; propterea parochus ad curiam se convertit, clamans ut alius transferetur capellanus, non ut poena, sed ut remota esset occasio contentionum, quae diebus magis et magis gravabantur, quia multi cives, etiam alii ex proceribus, manifeste favebant partibus capellani et altas movebant querelas in parochum. Verum hic potuit a curia obtinere, ut alii officio destinaretur sac. Bressan; sed paullo tempore ille abfuit ab oppido Vigonovo; nam fautores eius nullum non moverunt lapidem ad eius reditum implorandum; eumdemque redeuntem magnis conclamationibus et significationibus gaudii amplexi sunt. Hinc aspera lucta orta est inter parochum et capellanum, non sine perturbatione pacis publicae in oppido, ita ut ipsa auctoritas politica, ne turbae in populo excitarentur, timere visa sit. Interim, Ecclesia sua viduata pastore, Vicarius Capitularis mense Martio anno Domini millesimo octingentesimo nonagesimo tertio ad S. C. C. recursum habuit, petens si statim removendus esset parochus a loco beneficii, ei tenui reservata pensione; vel potius, antea processus canonicus instituendus esset. — S. C. C. die 8 Aprilis anno Domini millesimo octingentesimo nonagesimo tertio reposuit: "Emi Patres tibi scribi mandarunt, ut iubeas praefatum parochum Maniago statim discedere a paroecia loci Vigonovo sui, poena suspensionis ipso facto incurrendae, nisi pareat; et deinde, nisi idem parochus malit nuncium mittere paroeciae cum tenui pensionis reservatione, processum contra eum instituas ad tramites etc." Parochus, rescripti praetendens nullitatem, renuit obedire, quare ipsum poenas suspensionis et irregularitatis incurrisse, Curia edicto suo declaravit. — S. C. C. rescripto diei 20 Maii eiusdem anni eum absolvit, addens: "Quo vero ad confectionem processus, aut ad restitutionem parochi, Sacra Congregatio rescribendum censuit: Expectetur novus Episcopus."

[*Latin ed. p. 13*]

CONCORDIEN. 15 The parish priest, even under pressure from the authorities, was forced to leave the parochial house and the administration of the benefice, and the treasury did not cease to seize these assets; however, the spiritual care of souls was undertaken by Matthaeus Bressan, who was appointed in his place by the Vicariate Capitular. Under these circumstances, the new Bishop, by decree of April 12, 1894, appointed

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certain judges to conduct the proceedings, and on February 16, 1895, the following judgment was issued by the delegated judge: I. The parish priest of Vigonovo, D. Valentinus Maniago, is to be restored to the exercise of his ministry, free from any interdict, in the same parish, provisionally, as decreed by the Sacred Congregation of the Council on April 8, 1893. II. The aforementioned parish priest is to be restored to his canonical and civil rights concerning the administration and revenues of the parochial benefice; for this purpose, the episcopal curia is charged with assisting him. III. Since, given these circumstances, D. Valentinus Maniago could not, without causing harm to himself and to souls, resume the office of parish priest of Vigonovo on his own, he is to consult with the Ordinary regarding the care and spiritual administration of the parish, until he is either able to return there, or is invested with another ecclesiastical benefice. Subsequently, the parish priest of Maniago raised a question regarding the expenses to be covered, but with an unfavorable outcome. The controversial judgment, published on March 1, 1895, regarding its merits, had opponents among the townspeople, who, on March 7 of the same year, presented a petition for appeal to the curia. Therefore, the representatives of the parties contested the following points: I. Whether an appeal or recourse should be admitted in this case. And, assuming an affirmative answer: II. Whether the judgment of the episcopal curia should be confirmed or overturned. The parish priest's advocate, arguing that an appeal should not be admitted, noted that it requires: 1) that the appeal be made within ten days from the date of the judgment, and with notification given; 2) that the appeal be made in...

[*Latin ed. p. 14*]

14. CONCORDIA. It is asserted that: 1) a judgment may be overturned; 2) that, when a sentence is pronounced, it may cause detriment to the rights of a party; 3) that, in order for an appeal to be valid, it must be brought within a certain time. This is derived from the authority in book 6 of the Code, title "De appellationibus," where it is stated: "Today, however, a period of ten days is granted to everyone from the recitation of the sentence, to be counted." Also, from the Decretals of Gratian, part 2, cause 2, question 6, chapter 28: "And we decree that all appeals... can be presented within a period of ten days from the recitation of the sentence, by those whose interests are involved, to the judges." From the Decretals of Gregory IX, book 2, title 27, chapter 15: "For when, after a period of ten days, the sentence passes into the authority of the judged matter; he who does not seek recourse to an appeal within that time denies himself the right to appeal." Therefore, the appeal initiated by certain inhabitants of the town of Vigonovo before the Sacred Congregation on February 23, 1896, against the sentence in question, which was pronounced on February 16, 1895, cannot, without doubt, be accepted, the advocate argues. Regarding

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the second condition, he notes that it is well-established in law that not everyone can appeal, but only those whose interests are involved: I. 1 dig. de appel, recip., and cap. Non solent, cause 2, question 6, where these words are read: "Appellants are not usually heard, unless those whose interests are involved." And in chapter 16 of the Decretals on elections, the same is established: "Appellants are not usually heard unless those whose interests are involved; therefore, that appeal is not considered to be legitimate." With these observations, the advocate continues, since the Parish Priest of Maniago, according to the judgment, cannot even reside in the town of Vigonovo, the appeal of the inhabitants cannot be considered to be of interest, and therefore must be declared completely invalid. And if the care of souls is entrusted to the Parish Priest or his Vicar, this is the duty of the Bishop, and not of the inhabitants; just as it is the duty of those in authority, and not of the citizens, to choose the judges. The third condition, the advocate points out, which is detrimental to the appellant, is clearly stated in book 5, Extravagantes, Commonitorium "De poenis," where these words are read: "Against oppressions, the appeal itself ought to have been the remedy." The Glossa repeats: "An appeal is a remedy against oppressions." And De Angelis, in his "Praelectiones Iuris Canonici," book 2, title 28, teaches: "An appeal... is a remedy..."

[*Latin ed. p. 15*]

CONCORDIEN. Quindecim officia definuntur. Appellatio, facta a inferiore ad superiorem iudicem, est propter gravamen infligendum vel iam infligendum... Causae, ob quas hoc remedium appellationis est introductum, principaliter sunt sequentes. 1. Ut removeatur gravamen inique oppressis infligendum. Cap. Suggestum 15, h. t... "Appellatio est species quaedam defensionis, quae datur oppressis contra iniuriam iudicis." Itaque concludit advocatus, cum incolae oppidi Vigonovo nullum detrimentum, nullam oppressionem, nullam iniuriam Iudicis, vi sententiae reprehensae, passi sint, vel patiantur, vel pati poterunt; eorum provocatio, qui testium munere functi fuerunt, res vanitatis est. Descendens orator ad alterum dubium, defensionem repetit ab ipsis sententiae verbis, quibus innuitur, processum instructum adversus Parochum Maniago haud peperisse eiusmodi gravamina, ut suo officio indignus declarari posset. Etenim ex decem et septem gestibus eruuntur accusationes sequentes: I. Praxim viae crucis Parochus peragere recusavit. II. Onera Missarum pro defunctis distulit. III. Posthabuit praedicationem. IV. Praedicatores extraordinarios haud accersivit. V. Catechismum neglexit, et promovit ad primam communionem pueros instructione carentes. VI. Tardus et frigidus fuit erga aegrotos. VII. Nimium pota vit vinum, absque tamen ebrietate. VIII. Avarus non fuit, sed sordidus in vestibus, et valde pecuniae inhians. IX. Prandia de more haud fecit. X. Cappellano facultatem denegavit celebrandi primam Missam in quadragesima et verbum Dei

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praedicandi. XI. Odium aluit erga cappellanum, et moribundum qui de pace et remissione rogavit. XII. Indolem exhibuit duram, litigiosam, perfidam atque mendacem. Testes vero, qui aut de visu aut de auditu praedicta gravamina evincere studuerunt, de moribus eiusdem parochi nihil esse dicendum retulerunt. Haec omnia tamen satis fuerunt, ut invisus populo esset et haberetur. Alii vero testes deposuerunt veram omnium dissidiorum radicem exquiri debere in contentionibus et simultatibus inter parochum et cappellanum, et inter amicos utriusque partis dissidentis.

[*Latin ed. p. 16*]

16. CONCORDIA. The entire matter concerns refuting the principal accusations. The parish priest initially wished to change only the hour of the Stations of the Cross, which he considered unsuitable; but ultimately, he abandoned it entirely in the heat of the dispute. He forbade the chaplain from preaching and from saying the first Mass during the season of Lent; and other offices of the sacred ministry, adhering to the customs of the place, which some canonists follow, he considered it permissible to postpone. Hence, it is not surprising that, considering only himself, he delayed the prayers for the dead, which often flowed to him frequently. Regarding negligence in promoting children to their First Communion, few witnesses are present, so that the parish priest can truly be called excessively negligent in teaching Christian doctrine and deserves to be punished legally; Barbosa de off., and the duties of, pastors, part 1, chapter 15. The parish priest's negligence regarding the preaching of the Word of God is not formally approved, because different witnesses testify differently: the Ordinary could only judge the suitability of bringing in extraordinary preachers by listening to the complaints of the enemies; all the more so because the duty of preaching belongs to the parish priest, Barbosa, loc. cit., p. 1, chapter 14, and the Sacred Congregation of the Council declared that if pastors of souls wish to perform the office of preaching themselves, they should not be hindered. Furthermore, the parish priest is accused of hatred towards the chaplain; and it should not be forgotten, says the defender, that the chaplain often provided opportunities for himself by interfering too much in the affairs of the parish priest. It would have been better for both if the chaplain had been removed from the beginning, while the bond, the right, and the canonical investiture remain with the parish priest; while his unworthiness has not been proven, even after the dispute and through numerous proofs. The president of the extraordinary session of the Tribunal, who conducted the process against the aforementioned parish priest, invokes the Council of Trent, session 22, chapter 6, concerning reforms. But no judge could gather from the records of the process that the parish priest lived lewdly or scandalously; or that he remained in his wickedness after

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being warned.

[*Latin ed. p. 17*]

CONCORDIEN. In Trident, it is clearly stated that scandal arises from corrupted morals, but the parish priest, about whom we are speaking, has, according to the testimony of all, presented himself in every respect as an example, without reproach. The scandal, however, originated with the chaplain, and those attached to him, who, although they had been witnesses for a long time of the easy character and benevolent nature of the predecessor, found in the succeeding parish priest a harsh and avaricious disposition. For these reasons, alienation of spirits arose, not asserted hatred of the people: and the beneficiary does not deserve to be stripped of his position; but he is placed in the case of voluntary resignation, and dissolution of the bond by which the pastor is bound to the flock. However, it cannot be asserted that the parish priest, even if sometimes provoked to indignation, has offended the charity towards the faithful entrusted to him; but it cannot be said that he was reckless or audacious towards his superiors. From all of this, the advocate concludes, that there has not been proven a just cause for the deposition of the parish priest, by which, according to the law, he is punished.

DEFENSE OF THE PEOPLE. On the other hand, the advocate who defends the citizens, when appealing to the Sacred Congregation of the Council, regarding the first question, namely, whether this appeal or recourse should be sustained, points out that they did not immediately initiate the appeal at the Sacred Congregation, because a judgment was pending before the Metropolitan Court regarding the reimbursement of judicial expenses, which matter was finally settled in January 1896. He notes that the complaint of the citizens should not be disregarded, because "all and each, in whose interest it is, can appeal" (Reiffenstuel, *Jus. Can. Univ.*, ad tit. de appell., I, 2, tit. 28, § 2, n. 37). He proves that the parishioners have an interest in such cases, citing these words from Foli in Baren, discussed before the Sacred Congregation on May 17, 1851, § "Contra, ibi": "Parishioners, too, may insist that a suitable priest be chosen for them, and equally that a priest who lives badly be removed from the parish, for the general interest which the parishioners have in being governed by a good priest." Finally, the advocate says, even if the appeal were not to be admitted, recourse to the highest authority should not be denied to the citizens, because "Recourse to the supreme authority is never considered forbidden, *Tom. XXX*, page 349."

[*Latin ed. p. 18*]

18. "CONCORDIA, ex qua, sicut omnes jurisdictiones fluunt, ita etiam conveniens est ut postea refluant" (Rota coram Rondinino in Cracoviae, voce activa et passiva, 31 Ianuarii 1676, p. 18, rec., t. 2, dec. 639, n. 23). Nec

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aliter Barbosa: "Non denegatur remedium his qui iustam se habere causam arbitrantur, quo possint mederi gravaminibus; id autem est ad superiorem recursum; etenim iure permissum est, ubi appellari denegatur, ut per viam querelae superiorem adeatur" (vot. decisio, vot. 4, n. 79). Ingrediens vero patronus alteram quaestionis partem, nempe meritum causae, contendit rem iam definitam fuisse rescripto diei 8 Aprilis 1893, quo edicebatur: "Ordinarius iubeat praefatum Parochum Maniago statim discedere a Paroecia Vigonovo sub poena suspensionis, ipso facto incurrendae nisi pareat, et deinde nisi idem Parochus malit Paroeciae nuncium mittere, cum tenuis pensionis reservatione, processum contra eum instituat". Cuius rescripti mentem hanc esse contendit orator, ut parochus etiam invitus deberet removeri a paroecia et dein, ut eidem renunciaret, cogi, si ex processu constarent vera esse quae opponebantur. Iamvero, instat orator, ex processu patuit Valentinum habere indolem extravagantem, aerem, mendacem et inexorabilem, seu parochum esse alienationibus et rixis pronum. Ex testibus, alius deponit, parochum loqui solitum esse de rebus pietati et religioni alienis; alius, pueros ignorare fidei mysteria; alius, sese impedire debuisse filii proprii promotionem ad primam Communionem utpote non praeparatim. Suum cappellanum acriter exagitasse referunt testes, et parochum noluisse reconciliari cum paroeciano morti proximo, qui pacem moriturus efflagitabat. Notat orator, testes haec et alia plura facta deponentes, esse fide dignissimos et istos fuisse delectos. Sane, urget advocatus, haec omnia confirmari a Vicario Foraneo. In suis litteris, Cardinalis Patriarcha Venetiarum confirmat de rudi natura parochi, omnia quae a testibus relata fuerunt.

[*Latin ed. p. 19*]

CONCORDIEN. 19 Therefore, the speaker concludes, there is indeed a reason for removing someone from a parish. And this is indeed a true and well-established fact, for there are two ways in which a parish priest can be removed: one is through deprivation, the other, in legal terminology, is called removal. The former carries the nature of a punishment, which, indeed, cannot be imposed unless a very serious cause is proven through a proper investigation. The latter, on the other hand, is not a punishment, but a remedy for the peril facing the parish. And it is permissible to decide upon this without a prior investigation, when it is sufficiently clear that, even if the parish priest is blameless in his life and pure from sins, he is unable to govern the parish entrusted to him without causing harm to souls. Indeed, the speaker believes that there are reasons for depriving a parish priest of his benefice, if, as it is written in the document from Bergamo, "...if the animosities of the parishioners are just and reasonable, the parish priest ought to be deprived of his office, not merely removed." But the advocate insists that there is a primary reason for removal, because, "A parish priest who is odious to the people, to such an extent that a grave scandal threatens if he remains in the parish for which he was appointed,

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can even be compelled by the Bishop to change parishes, or to be removed in some other way." (Bellettus, Disquisitiones clericales p. 1, § 15, n. 19, Romae 1654, page 93). "The hatred of the people... must be considered so that a forced resignation, equivalent to deprivation, is imposed upon the parish priest." (De Nigris, De vacat, benef. lib. 2, cap. 2, n. 16). Thus, the Sacred Congregation [Consilium] in Turin, on July 7, 1855, in Limburg, on June 27, 1857; in Egstetten, on September 22, 1742; in Herbipole, on December 22, 1860; and finally, in Bergamo, on August 12, 1865; which the author of the Ephemerides Acta S. Sedis interprets as follows: "From this, it can be gathered that a parish priest cannot be removed from a parish, but can be removed either through deprivation or through a simple economic removal, which can be either permanent or temporary – an economic removal can occur either due to the incompetence or unsuitability of the parish priest for properly governing the parish, or due to a grave hatred and aversion of the people, in the presence of which the parish priest cannot properly serve his parish." Vol. I, p. 519-520.

[*Latin ed. p. 20*]

20. CONCORDIENSIS. The defender argues that the judicial form in the removal [of a priest] must be observed to the least possible extent, since "there is no need for a formal process in the removal, when it is not a question of imposing a penalty, but of providing a simple remedy to the dangers of scandal and animosity." The Secretary in Bergamo, August 12, 1865. Furthermore, the advocate argues, the parish priest cannot object to the granting of another benefice to someone else. For it is a fact that, after Valentinus was absolved from the suspension and irregularity with benignity by the Sacred Congregation, the Bishop appointed him as an economist in the town of Predipozzo. He currently holds this office; but when asked if he wished to be appointed as a parish priest, he refused. When the Sacred Congregation, on April 20, 1896, considered Valentinus to be unfit for the parish office, "the Bishop should, in the best way possible, resolve the matter by conferring the aforementioned benefice without the care of souls" upon another priest. The Bishop of Concordiensis promised Valentinus a benefice in the Cathedral Church, but he also refused to accept it. From these points, the advocate believes that he has sufficiently demonstrated that the Court's judgment should be overturned, and he turns his attention to clearing his client from the charge of excessive zeal and presumption; and he says that, indeed, the delegated judge, in drafting the judgment, has extenuated the faults of the parish priest with all diligence; but that the chaplains also bear the blame for the animosities, discord, and scandals that arose in the parish, attributing them solely to the parish priest; whereas all these things also occurred in the parishes of Valvasone and Riparotta, previously held by Valentinus, even though Bressan was not present there. Finally, the advocate argues that the judgment was dictated

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by the interests of the parties, and that it is absurd and impossible, given its tenor, to restore the parish priest to the exercise of his ministry... but since, without his consent, they would not allow him to personally serve as a parish priest without prejudice to himself and his flock, it would be necessary to consult with the Ordinary regarding the spiritual administration of the parish until his reinstatement becomes possible, or until another is appointed to the benefice. With these premises, the proposed measures must be reconsidered.

[*Latin ed. p. 21*]

21. CONCORDIA. Doubt I. Does it pertain to a legitimate appeal or recourse in the case? And, to the extent that it is affirmative: II. Should the sentence of the Delegate Judge of Concordia be confirmed or annulled in the case? RESOLUTION: After deliberation, the Sacred Congregation considered it appropriate to respond: To I, affirmatively, regarding the recourse. To II, the sentence is to be confirmed according to the following manner: The parish priest of Maniago must, within fifteen days from the notification of this decree, renounce the parochial benefit; and if he does not comply, the Bishop shall remove him by the name and authority of this Holy Congregation, and shall provide for his proper support. FLORENCE, regarding MARRIAGE. On April 3, 1897. Session 25, chapter 12, concerning reform. SUMMARY OF THE CASE. Martha, a girl of 17 years, on July 4th of the year 1894, in Florence, before her own parish priest, celebrated a marriage with Anatolio, a man of 27 years of age. The newlyweds immediately began to live together as husband and wife, but, according to Martha, the husband suffered from an impediment to consummation, and was in no way able to complete the marriage act. For this reason, three days after their cohabitation, the spouses requested to consult a renowned expert in the art of medicine. The doctor prescribed various remedies to Anatolio, but without a happy outcome, as it appears. The spouses then returned to Florence, and the husband, according to the advice of two experts, followed almost the same medications for several months, which, it is asserted, always proved ineffective.

[*Latin ed. p. 22*]

22. Anatolius of Florence, still hoping to acquire the power of virility, departed for Naples in October of the year 1895, in order to submit himself to the treatments of Doctor Bianchi. Martha, however, did not accompany her husband, but returned to her mother, and, having revealed Anatolius's impotence to her mother and others, at the beginning of last March, she returned to the Florentine archiepiscopal court, requesting the nullity of her marriage on account of her husband's impotence. The archiepiscopal court, concerned with the matter, initiated a process, but since Anatolius, duly summoned by the court of Naples, to which this matter had been

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delegated, refused to appear in court, it was decided to appeal to the Most Holy Pope for a dispensation regarding the marriage, which was not consummated. The Florentine judge, delegated by the Sacred Congregation of the Council to pursue the process concerning the lack of consummation, promptly completed the proceedings and, in August of last year, submitted the matter to the Sacred Congregation.

A Synopsis of the Arguments:

Since, according to the law, the power to consummate a marriage is required, as stated in Decret. Gregor. IX, lib. 4, tit. 15, cap. 2: "Those who are impotent are not considered fit to enter into marriage," the defender of the client presented almost the entirety of the client's testimony, from which it is clearly evident that the marriage had not been consummated due to the husband's impotence. Furthermore, the medical treatments, which were attempted both in Florence and in Genoa, and in Naples, proved to be futile. This is confirmed by the testimony of all the witnesses. Moreover, other witnesses testified that Anatolius suffered from impotence, that he had made futile attempts to remedy it with the help of medicine, and that the woman was worthy of faith. These affirmations of the witnesses, the advocate stated, are wonderfully confirmed by a physical examination of the woman's virginity, which was performed by midwives, and which was conducted in strict accordance with the instructions of the Sacred Congregation of the Council of August 20, 1840. Two doctors, who instructed the midwives regarding the aforementioned examination, fully approved the midwives' reports. DEFENSE OF THE WOMAN.

[*Latin ed. p. 23*]

FLORENTINA, on the 23rd, reports that, indeed, the surgeon Gustavus Passamonti has added that he himself has examined her, in order to more securely give testimony regarding the woman's condition. These facts being established, the advocate proceeds to consider the reasons for granting a dispensation, among which he lists Anatolii's impotence, which, although there may be some doubt about it, would be sufficient to grant a dispensation, as Coscius De separatione tori coniugalis, book 1, chapter 16, states. Aliam finds another reason in a very grave and, indeed, insurmountable aversion of the spouses, from which discord, bad examples, and even the marriage itself can arise. See Ursaya, Disputationes, 21, paragraphs 60, 61, 62, volume 3, part 2, and Disputationes, 7, paragraphs 76, 77, volume 3, part 1; and Corradus, in prax. dispens., book 8, chapter 7, paragraph 36. Finally, another and most evident reason in this case is the spiritual benefit to the petitioner seeking the dispensation, which has always been recognized by Canonists as a very serious reason at all times.

OBSERVATIONS OF THE DEFENDER OF THE SACRED BONDS. The defender of the sacred bonds attempts to highlight the favor of marriage. Among the acts of the judicial inquiry, he first finds the free declarations

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given by Martha on March 2, 1896, to the judge, in which she named Angelum Filippi as a witness in place of her sister Aloisia. And she writes in another letter to the same judge: "In place of my uncle, I would name, if it pleases you, Hubertum Gabbi." However, the facts have shown that the judge accepted Martha's substitution of witnesses in all respects. Indeed, he says, this substitution of witnesses gives rise to suspicion of some fraud. Martha had listed her sister Aloisia and her uncle Dantem among the witnesses. However, nothing prevents Martha from subsequently learning that her sister and uncle would give testimony in favor of the marriage, and therefore, she may have requested to substitute other witnesses for them. Regarding the physical examination of the woman, it is noted that the midwives, after completing the examination, did not provide a written report, but only an oral one: which method is full of dangers and absolutely contrary to the prescriptions.

[*Latin ed. p. 24*]

24. From the Florentine Congregation of the Holy Office, published on August 22, 1840. It is also noted that the aforementioned Instruction cautions against conducting a physical examination, and that the report of the completed examination should be provided separately by each midwife. However, it is not certain that this was actually done in this case. Addressing the matter more directly, the advocate, who presents a case involving two actions, namely, nullity and dispensation from marriage, states that it is not permissible to act rashly regarding the nullity. For, a legal examination of the man's body is lacking. Furthermore, Martha's brother, Peter, mentions that he learned through letters from Anatolius, who wrote from Naples to his wife, revealing his discomfort, or his own inadequacy for intercourse. However, these alleged letters are not found among the records of the investigation. But it is a common legal saying: "What is not in the records, is not in the world." The physician, Hubert Gabbi, and others, report that they learned from letters sent by Professor Bianchi from Naples to Anatolius's family, that the man's illness had been treated in vain. However, neither Gabbi nor Barsanfi, nor anyone else, has presented these letters. Therefore, the advocate laments that neither the Judge nor the Defender of the Bond ordered the aforementioned letters to be included in the records of the investigation. Indeed, it is stated that they are held by Martha. And Martha urged the presentation of the letters, especially since the testimonies of the witnesses do not appear to be entirely consistent. Regarding, however, the dispensation from marriage, besides the fact that the lack of consummation, which is the least of the requirements for a dispensation, is not proven, the other necessary condition, namely, a just cause, is entirely lacking. Indeed, there is no proof of the man's probable impotence, nor is there an insuperable aversion between the spouses, as Martha's advocate contends. In light of these circumstances, the following

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questions have been proposed: I. Whether there is proof of the nullity of the marriage in this case. And, if the answer is negative: II. Whether consultation should be sought from the Most Holy [Father] regarding the marriage and the lack of consummation in this case.

[*Latin ed. p. 25*]

FLORENTINA, April 25th, Sacred Congregation. After deliberation on the 3rd of April, 1897, it judged that the response should be: Affirmative, forbidding the man from entering into other marriages, without the consent of the Sacred Congregation.

RESOLUTION. FROM THE LEGATES OF VALLETTA, May 8th, 1897. SUMMARY OF THE CASE. In the city of Valletta, in the diocese of Melevita, on August 10th, 1828, Margaret Pace bequeathed certain urban properties to Francis Pullicino, a priest and archpriest; among other things, with the following condition: that he celebrate, or cause to be celebrated, in the church or altar that he prefers, a perpetual daily Mass, with a designated alms, increased by one tari above the alms, for the benefit of the soul of the testator. Later, Margaret added a codicil to her will on September 15th, 1831, in which, listing the burdens established in the will, she made some changes, and declared others. Regarding the burden of the Masses, she indirectly introduced a change. For in the aforementioned codicil, among the pious burdens already prescribed in the will, she assigned a specific sum of 270 scudi for their fulfillment. Indeed, a certain sum of scudi is assigned to each burden; therefore, 150 scudi remain for the celebration of the daily Mass, which corresponds exactly to the alms for the Mass mentioned in the codicil, with the addition of one tari, as prescribed in the will. If, at that time, the payment for the Mass consisted of four tari; therefore, 120 scudi were to be paid for the daily Mass; and with the addition of one tari, 30 scudi are further spent, thus making up the sum expressly stated in the codicil, namely 150 scudi. Therefore, while in the will an uncertain sum was destined for the celebration of Masses, in the codicil a fixed sum of 150 scudi was assigned, corresponding to the alms for the Mass, with the addition of one tari, according to the amount of the Mass stipend.

[*Latin ed. p. 26*]

26. Circumstances have changed with the passage of time; on the contrary, in the codicil, a fixed sum is expressly stated, without any consideration for the ordinary increase or decrease of the stipend. Meanwhile, the property bequeathed to the archpriest Pullicino has been successively alienated to various possessors, all of whom have recognized the real obligation of the daily Mass, but have observed it as prescribed in the will, namely, by adding a donation of one tari for the time being. Today, however, the synodal donation is greater than that which was in force at the time the will or codicil was established; therefore, the current possessor of the property,

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Gabriel Azzopardi, in a petition presented to the Sacred Congregation of the Council, asks whether he is permitted to maintain the fixed amount of the donation established in the codicil, so that he should only have to contribute 150 scudi annually for the daily Mass. The question of whether the testator's will should be interpreted according to the last words of the testator is a matter of considerable legal debate. It is argued that the will of a person is changeable until the very end of life, and that the will is considered supreme and irrevocable which is last expressed and confirmed by the testator's actions. According to common law, codicils are admitted to clarify the will of the testator, since, by their very nature, they serve to confirm or revoke legacies left in the will. Thus, Reiffenstuel defines a codicil as follows: "A codicil is the last will, made without the direct institution of an heir, and through which donations made for the sake of death, legacies, and even universal trusts can be made, and testaments can be declared valid, and the institution of the heir can be changed, diminished, or increased" (lib. 3, tit. 26, n. 707). Therefore, it seems that more legal arguments could be brought forward to favor the interpretation of the codicil in accordance with the intention of the testator, namely, to contribute only 150 scudi for the obligation of the Masses. However, on the other hand, it could be argued that the codicil should be reconciled with the will, and that Margaret did not express a contrary intention to that signified in the will, but...

[*Latin ed. p. 27*]

MELEVITANA 27, rather, seems to have confirmed this by assigning a sum of 27 scudi, which corresponds precisely to the alms then in force, with the addition of one tari, already determined. Therefore, it appears that an order was already expressed in the will, namely, to always add a certain increase to the alms according to the current time, as this increases. Otherwise, it is not surprising in a woman that she did not easily foresee a change in the amount of the alms, but rather, she considered it firm and stable in her codicil in which the obligations were again listed, better determined and explained. Furthermore, if the words with which the sum of 270 scudi is assigned are considered, it is clearly evident that this taxation did not aim to change the testamentary will, but rather, to place the total sum in view at that time, in order to fulfill the pious obligations; for to the pious bequests is added the amount of two hundred and seventy scudi in total, but immediately before, it had been stipulated that the respective annual assignments, already declared in the trust, should be made. Therefore, it will be judged by the Most Excellent and Most Reverend Lords whether this manner of speaking is sufficiently clear to rescind the prescription clearly stated in the will. Nor should it be overlooked, the custom, which is the best interpreter of laws. Margaret always demanded that the supreme will be carried out, as it was clearly stated in the will, without regard to

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the codicil. Therefore, in the contracts of alienation, there is always added a clause that the land, among other things, is burdened with the obligation of one perpetual daily Mass with alms, increased by one tari for the current time. Because of this clause, the price of the land in the alienation should be estimated less; for the price should be reduced by the amount of the increased or to be increased alms, namely, because of the heavier burden assumed by the buyer; therefore, if this kind of burden is made lighter, by determining it to a certain amount assigned in the codicil, the seller may have the right to increase the price, namely, for the amount of the reduced burden. This is noted by the Archbishop in the letters of commendation, saying: "I..."

[*Latin ed. p. 28*]

28. "The aforementioned sellers, at most, may perhaps have the right to an increase in price against the Orator, if and as often as said foundation is declared to be enforceable according to the terms of the codicil, etc." Finally, because a specific bequest is contained in the codicil, if this presumption is accepted, it necessarily follows that the Masses must be reduced, namely, in the case in which, due to an increased alms, more Masses than can be celebrated daily with that sum of money cannot be celebrated. Indeed, the Sacred Congregation of Rites is accustomed to grant Ordinaries the faculty of reducing Masses in the case of specific bequests, according to the measure of the increased alms. To this pertains the Instruction of the Holy Office, which is cited by Benedict XIV in *Opera*, *De Synodo Dioecesi*, I, 13, chapter final, number 32, with these words: "How to proceed in the execution concerning specifically or demonstratively conceived bequests, His Holiness has ordered that the undersigned should notify Your Eminence that, after mature consideration and examination of all dispositions and foundations by which the aforementioned obligations of Masses are attached (except for instruments or contracts upon which hands should not be placed, unless in the case of a judicial instance for their rescission, on the title of injury), those bequests or foundations will be considered specifically conceived if the founders, by bequeathing or in some other way disposing, first began with the prayer or disposition before the assignment of the property, and then added the obligations of Masses; and in this case, such obligations can be regulated in proportion to the manual alms, as mentioned above; otherwise, if the founders began with the imposition of the obligation and then assigned the property; then the obligation is said to be demonstratively conceived, and the heirs of the founders are to be compelled by Your Eminence to perpetually maintain said obligation and to supplement the deficient sum, both for the past and for the future." With these observations made, the question was raised as to what answer should be given to the requests.

RESOLUTION. The Sacred Congregation, after deliberation on the mat-

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ter on May 8, 1897, decided that the following should be answered: "Nothing is to be changed."

[*Latin ed. p. 29*]

29 ANGUILÊME. Doubts concerning votive offices. On February 22, 1897. Most Blessed Father, the Chapter of the Cathedral Church of Angoulême, on March 26, 1896, obtained from the Holy See, due to the grave infirmity and advanced age of the Canons, a dispensation for ten years from the Mass and all capitular offices, except on Sundays and holy days of precept. Furthermore, the following is inquired: Can each Canon privately recite, on simple days and weekdays, the votive offices freely granted, even though the aforementioned Chapter does not admit these offices in a capitular manner? And, if the answer is negative: John Peter Davant and Julius Moreau, Canons, because of their infirm health, request the faculty of reciting the aforementioned offices on the days on which they are permitted. And God, etc. On February 22, 1897. The Sacred Congregation of Bishops, composed of the Most Eminent Cardinals Interpreters of the Council of Trent, deemed it fitting to respond to the aforementioned doubts as follows: To the first question: Negatively. To the second: Considering the infirmity, it has benignly been entrusted to the Bishop of Angoulême that, if the circumstances narrated are true, he may freely grant, according to his judgment and conscience, the faculty requested, and that it may be valid. CARD. DI PIETRO, Prefect, and Most Reverend Archbishop of Nazianzen, Pro-Secretary. FROM THE SACRED CONGREGATION OF BISHOPS AND REGULAR CANONS, a decree whereby it is granted to Capuchin friars living outside the cloister or traveling, with the permission of their Superiors, the faculty of confessing their sins to any approved confessor, and of being absolved by him even from reserved matters within the Order, without further obligation, provided that there is a lack of confessors. On April 5, 1897. Most Blessed Father, Brother Iucundus of Montonio, General Procurator of the Order of the Minor Brethren of St. Francis of Assisi, having prostrated himself before Your Holiness, humbly explains how the general statute for the Regulars, by which they are only permitted to confess their sins to confessors of their own Order and to receive absolution, has been mitigated more or less over time.

[*Latin ed. p. 30*]

From the Sacred Congregation for Bishops and Regular Canons, Rule 30, it is determined, and especially when Regular Canons live or travel outside their houses or convents, with the permission of their Superiors, and do not have access to confessors of their own Order. This was first established for the Minor Capuchin Order by Benedict XIV, in the Decree *Quod communi*, dated March 20, 1742, and then by Pius IX, in the Decree

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Quod in religionis die, dated September 28, 1852, which extended the concession granted by Benedict XIV, so that any Capuchin friar, who, with the permission of his Superiors, lives or travels outside the convent, and has only one confessor of his own Order with him, may freely and lawfully confess his sins to any secular or regular confessor, duly approved, and receive absolution from him, even from reserved matters within the Order, and thus be absolved from any incurred censures; provided, however, that he undertakes the obligation to present himself to his regular Superior as soon as it is possible, and again to obtain absolution from him regarding such reserved matters and censures. This obligation is truly burdensome and can easily cause many practical difficulties, and to some, doubts and anxieties, and also, considering human frailty and the malice of men, it can sometimes become an opportunity for greater evil. Furthermore, this kind of obligation or requirement, as far as is known, does not apply generally to other Regular Orders. Therefore, the Orator, after consultation and with the vote of the entire General Definitorium, humbly and earnestly beseeches His Holiness to grant the Capuchin Minor friars a dispensation, so that each of them, who, with the permission of his Superiors, is found outside the convent for any reason, and does not have access to confessors (at least two), may freely confess his sins to any confessor, duly approved, and receive absolution from him, even from reserved matters within the Order, and thus be absolved from any incurred censures: and that the religious person, thus absolved, shall not be obliged to present himself to his regular Superior to obtain a new absolution regarding reserved matters and censures. And God... From an audience granted by me to His Holiness, the Cardinal Prefect of the Sacred Congregation for Bishops and Regular Canons, on April 5, 1897. His Holiness, after hearing the explanations, graciously approved, and therefore granted the authority to the Reverend General Minister to grant a dispensation, so that the religious of his Order may freely confess their sins to any confessor, duly approved, in all respects according to the requests, provided that they live outside the cloister or travel, with the permission of their Superiors, but not for those who undertake journeys fraudulently or in violation of the law. Contrary to anything to the contrary notwithstanding. — Rome. S. CARD. VANNUTELLI, Prefect.

[*Latin ed. p. 31*]

51 FROM THE DECREE OF THE HOLY CONGREGATION FOR INDULGENCES, whereby a remedy is granted for all Tertiaries who, through the lack of a completed year of novitiate, have made an invalid profession. March 28, 1897. Most Blessed Father, Father Aloysius of Parma, General Minister of the Order of Friars Minor of Saint Francis, prostrate at the feet of Your Holiness, humbly explains: From the reports of the Visitators of the Secular Third Order of Saint Francis, it is evident that not a few Tertiaries have been received into profession invalidly, due to the lack of a

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completed year of novitiate. In some places, the practice has prevailed of receiving Tertiaries into profession in the same month in which they had been received into the novitiate the previous year, and even on the same day of the week – for example, on the first or second Sunday, on which they are usually received – but not on the same day of the month; from which it follows that many have not completed the year of novitiate. Therefore, he supplicates Your Holiness to deign to grant a remedy for all, wherever they may be on earth, who have thus far made a profession that is invalid due to the lack of a completed year of novitiate. And God, through the special faculties granted by the Most Holy Pope Leo XIII, the Holy Congregation for Indulgences and Sacred Relics, having heard the petition, has graciously granted the remedy, notwithstanding any objections. Given in Rome, from the Secretariat of the aforementioned Holy Congregation, on March 30, 1897. FATHER H. M. CARDINAL GOTTI, Prefect. ARCHBISHOP OF NICOPOLIS. SECRETARY. FROM THE PRESS OF THE VICARIATE OF THE CITY. DOUBTS and resolutions concerning the pious association of the Holy Family (1). March 30, 1897. Doubt I. – Whether those who use a common table with a certain family and live in a familiar manner, and who desire to be enrolled among the members, can be received under the name of that family? (1) See *Recole*, Vol. XXV, pages 8 and following, and 567; Vol. XXVII, page 60.

[*Latin ed. p. 32*]

32 FROM THE OFFICES OF THE VICARIATE OF THE CITY. Affirmative, but in the Parochial Register, the first and last names and the circumstances of cohabitation must be noted. Doubt I: – Can those who are not members of a particular family join any family in reciting the common domestic prayers, and in this way obtain the indulgences granted? Affirmative, provided that those who join a family in reciting the prayers have already given their name to the Pious Association. Doubt III: – Is mere enrollment in the records of the Pious Association sufficient to gain plenary and partial indulgences? Provided for in the Statutes and Regulations: – Enrollment and the simultaneous recitation of prayers are required. Doubt IV: – Is the formula of Consecration to be used by the parish priest in the sight of the church, in order to gain indulgences? Provided for in the Statutes under number 5, namely: It is not essentially required. Doubt V: – Is it necessary for all members of a family to be personally present when the family is to be consecrated in the church by the parish priest? It is not necessary, if the members themselves fulfill the other conditions. However, the names of the members must be noted in the Register. Doubt VI: – To gain indulgences, is the presence of only the father or mother of the family sufficient? The indulgences are gained by those who recite the formula or the prescribed prayers. Doubt VII: – Can the parish priest, who is the pastor in his parish, enroll himself and his family members in the Pious Associa-

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tion? Affirmative. Doubt VIII: – Can the parish priest, when weakened by old age or ill health, delegate the duties connected with the Pious Association to another priest, including the privileges and indulgences granted to the parish priest by the Apostolic See, to that priest who is taking his place? Affirmative, provided that the rules of Canon Law are observed, as regards delegation. Given in Rome, from the offices of the Vicariate, on the 28th of March, 1897. Mina RAPHAEL CHIMENTI, Secretary of the Pious Association of the Holy Family.

[*Latin ed. p. 33*]

A BRIEF COMMENTARY ON THE APOSTOLIC CONSTITUTION CONCERNING THE OFFICES AND FUNCTIONS RELATING TO THE PROHIBITION AND CENSURE OF BOOKS, ISSUED BY POPE LEO XIII, DIVINE PROVIDER. BY JOSEPH, PROFESSOR OF ECCLESIASTICAL HISTORY AT THE COLLEGE OF PENNACCHI, PROPAGANDA FIDE, AND CONSULTOR TO THE SAID CONGREGATION AND TO THE HOLY CONGREGATION. FROM THE COLLEGE OF THEOLOGIANS OF THE CITY, ETC. *Acta*, Vol. XXX, p. 349.

[*Latin ed. p. 35*]

PREFACE: We believe that it is often the case that actions are undertaken more out of habit than out of genuine conviction, and therefore that it is almost pointless to argue that the power of the Church authorities to intrinsically determine the doctrine of books, especially those that treat of religion, and to permit or prohibit them, according to whether they contain harmful or harmless and useful content, is a right that inheres in them. We do not address the question of whether this power properly belongs to the Church, so that it cannot be taken away by secular authorities; for we believe that no arguments can be found to support the idea that it can, in any true sense, be deprived of it. Such rights are known to stem from the authority given by Christ Himself to the pastors of the Church to teach and preach the Gospel to every creature (1), and from the teachings of the Apostles, by whom we are taught that the Church is the pillar and firm foundation of truth (2), and that Christ has therefore appointed pastors and teachers, so that we may not be swayed by every wind of doctrine into error and ruin (3). Furthermore, from the actions of the Apostles, especially Paul, who not only in his epistles handed down what pertains to the deposit of faith, but also what pertains to the rights of the Church among civil authorities, and to those things that concern the nature and destiny of man, and to the virtues that men ought to cultivate, we must read what is found in Romans XIII, concerning the nature and origin of authority; 1 Corinthians II, concerning the superiority of Christian doctrine over all other secular knowledge; ibid. VI, concerning judgments and lawsuits among Christians, and concerning the selection of judges for settling

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disputes; ibid. VII, concerning marriage and its use, and the indissoluble bond; Galatians I, concerning how Paul rebukes the Galatians for departing from the Gospel that he preached to them; chapter IV, concerning how he seeks to restore them from the servitude of the law; Ephesians IV, which teaches about the office of pastors in the Church, and V, concerning certain vices to be avoided, and concerning the mutual obligations of husbands and wives; 1 Timothy II, which teaches about the prayers that Christians should offer for kings and magistrates, and many other things. Since these things have been spoken by the holy men of God, inspired by the Holy Spirit, who then is...?

[*Latin ed. p. 36*]

56. Such a proposal would be so absurd that the Church would not wish to abolish that power which God Himself has entrusted to it. And we shall pass over in silence the actions which the pastors of the Church have undertaken throughout the centuries in this matter. Moreover, we do not wish to express the opinion that secular rulers should have the power to deal with harmful books; for, since they are obligated, not only in temporal matters, but also in spiritual matters, to promote the good of their subjects within the limits prescribed to them, they are bound to act in such a way as to prevent evil and to promote and increase good; and it is certainly known to no one that removing harmful books from the hands of the people and replacing them with good ones does not rank among the goods to be promoted. Therefore, we wish to affirm only this: that it does not pertain to secular rulers to decide, by their own authority, matters pertaining to religion and faith, but rather they should embrace and carry out the judgments of the pastors of the Church, and especially of the Roman Pontiff, and in all things submit themselves to their authority. For, after setting aside many arguments, we know from historical documents how much harm secular rulers have brought to the Church and to their kingdoms, when they have sought to enforce the law and the dogmas of the Church. And a most serious testimony to this truth is found in the Council of Toulouse in the year 1229, in Chapter VII, where, although severely punishing the Baillies, that is, those to whom the prince had entrusted the administration of justice in the provinces and in the larger cities, unless they persecuted and expelled heretics, it nevertheless prohibits them from persecuting anyone unless he has been judged by the Church to be a heretic: "Lest the innocent be punished for the guilty, or that anyone be falsely accused of heresy by the calumnies of some; we decree that no one be punished as a believer or heretic, unless he has been judged to be a believer or heretic by the Bishop of the place, or by some ecclesiastical person who has the power to do so." Chapter VIII, Mansi XXIII, 195. Therefore, they should remember that it was not to Tiberius or Herod that Christ said, "Feed my sheep, feed my lambs" (4), nor did the secular rulers command the apostles: "Feed those

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who are in you, the flock of God" (5). But if it is the sole prerogative of the Church to establish dogmas and to provide pasture for the flocks entrusted to it, then it is the sole prerogative of the Church.

[*Latin ed. p. 37*]

PREFACE 57 concerning the judgment to be rendered on those books which treat of the dogmas of the faith; and the duty of all others will be to render due obedience to the judgments of the Church. Much could be presented concerning the power exercised by the Church throughout the course of centuries to judge books; but he who desires to know more should consult St. Alphonsus de Liguori, Book 1, Tract II, on Laws, Appendix III, On the just prohibition and abolition of books forbidden for reading. Franciscus Antonius Zaccaria, *Storia Polemica della proibizione dei libri*. D. Bouix, *Tractatus de Curia Romana*, Section III, On the Authority of the Most Holy Congregations of Indices and the Inquisition. Augustinus Arndt, S.J., *De Libris Prohibitis Commentarii* 1895. We now proceed to refer to the Apostolic Constitution itself, and to illustrate it with brief comments. However, we first warn our readers that we shall insert in these comments both questions or doubts of any kind presented to the Most Holy Congregation of Indices, and the solutions and answers given; and also questions and doubts which have been presented to us for resolution. Those which are presented hereafter will be given on a separate page.

[*Latin ed. p. 39*]

BY THE DIVINE PROVIDENCE OF OUR MOST HOLY LORD LEO XIII, POPE, THE APOSTOLIC CONSTITUTION CONCERNING THE PROHIBITION AND CENSURE OF BOOKS. LEO, BISHOP, Servant of the Servants of God, for the perpetual remembrance of this matter. The principal and supreme duty, which must be diligently and most holily observed in this apostolic endeavor, is to constantly watch and strive with all effort, so that the integrity of the faith and of Christian morals may suffer no harm. And this, if ever, is most necessary in this time, when, with unrestrained license of minds and morals, almost all doctrine, which Jesus Christ, for the salvation of the human race, permitted to be preserved within His Church, is brought into daily contention and dispute. In this contest, the cunning and arts of the enemies are certainly varied and innumerable; but among the first are the dangers of writing and disseminating to the public what is written wrongly. For nothing can be conceived as more harmful to pollute minds through contempt of religion and through many temptations to sin (6). Therefore, fearing so much this evil, and as guardian and avenger of the faith and morals of the Church, He understood most promptly that remedies against such a pestilence must be taken; and for this reason, He constantly endeavored to prevent people, as far as in Him lay, from reading

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wicked books, that is, from this worst of poisons.

[*Latin ed. p. 40*]

40 The Apostolic Constitutions demonstrate the zeal of Saint Paul in this matter, as seen in the earliest times (7), and likewise reveal the vigilance of the Holy Fathers, the decrees of Bishops (8), the decisions of Councils (9), and every subsequent age. In particular, the monuments of writings testify to the great care and diligence with which the Roman Pontiffs have guarded against the spread of heretical writings, to the detriment of the public good. Antiquity is full of examples. Pope Anastasius I condemned the pernicious writings of Origen (10), Pope Innocent I condemned the writings of Pelagius (11), and Pope Leo the Great condemned all the works of the Manichaeans (12), with a severe decree. The same is known from the decretal letters concerning the acceptance and rejection of books, which Pope Gelasius appropriately issued (13). Similarly, over the course of the ages, the pestilent books of the Monothelites (14), Abelard (15), Marsilius of Padua (16), Wycliffe, and Huss (17) were condemned by the Apostolic See. In the fifteenth century, with the discovery of a new art of printing (18), not only were corrupt writings that had already appeared suppressed, but measures were also taken to prevent any writings of that kind from being published in the future. And this foresight was not prompted by a minor cause, but by the absolute necessity of protecting the honor and public welfare at that time, because too many people had quickly turned the art itself, which is inherently good and the source of great benefits, and which was born for the propagation of Christian civilization, into an instrument of immense ruin. The great evil of corrupt writings was greater and more rapidly effective than the very speed of their dissemination. Therefore, with the best of intentions, Pope Alexander VI and our predecessors, Leo X (19), enacted certain laws, appropriate to those times and customs, to restrain the booksellers in the exercise of their profession. Soon, with a more serious surge, it became necessary to more diligently and forcefully prevent the contagion of harmful heresies. Therefore, Pope Leo X, and later Pope Clement VII, severely forbade anyone to read or possess the books of Luther (20). For, unfortunately, the impure flood of pernicious books had grown beyond measure and spread to all parts, and it seemed necessary to employ a more extensive and immediate remedy.

[*Latin ed. p. 41*]

POPE LEO XIII, 41 paragraphs. Indeed, this remedy was opportunely employed by our predecessor, Pope Paul IV, namely, by listing the authors and books from whose use the faithful ought to be warned (21). Not long afterward, the Fathers of the Council of Trent endeavored to restrain the license of writing and reading with a new decree. By their will and command, prelates and theologians not only worked to augment and refine

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the Index, which Paul IV had published (22), but also wrote rules to be observed in the publication, reading, and use of books; rules to which Pope Pius IV added the strength of his apostolic authority (23). However, the reason of public salvation, which had given rise to the Tridentine Rules at the beginning, did not command anything different in them as the ages passed. Therefore, the Roman Pontiffs, especially Clement VIII, Alexander VII, and Benedict XIV, mindful of the times and prudent, decreed more things that would serve to explain and adapt them to the times (24). These things clearly confirm that the principal concern of the Roman Pontiffs has always been to defend civil society from the errors of opinion and the corruption of morals, this twofold flaw that is commonly seen to be generated and spread by wicked books. And the effort did not fail, as long as the law of command and prohibition according to reason prevailed in the administration of public affairs, and the rulers of states agreed with sacred power (25). What followed afterward is known to no one. Namely, as the course of events and of men gradually changed, the Church, prudently in her own manner, did what seemed more expedient and useful for the salvation of men, having considered the nature of the times. Several of the prescriptions of the Rules and the Index, which seemed to have become obsolete by the changed circumstances, were either abolished by decree, or, with benign and prudent foresight, were allowed to become obsolete by custom and usage (26). More recently, in letters addressed to archbishops and bishops from the pontifical jurisdiction, Pope Pius IX largely mitigated Rule X (27). Furthermore, in anticipation of the great Council of the Vatican, learned men...

[*Latin ed. p. 42*]

42. The Apostolic Constitution, having entrusted this matter to those chosen for the purpose, ordered them to examine and evaluate the entire Index of Prohibited Books, and to render a judgment as to what should be done concerning them. They judged, with unanimous agreement, that they should be amended (28). Many of the Fathers openly declared that they themselves felt and desired this, and letters from the Bishops of Galliae exist on this matter, in which they state that it is necessary and should be done without delay, so that the Index and the entire matter of prohibited books should be completely renewed in a manner more suitable to our age and easier to observe (29). At that time, the judgment of the Bishops of Germaniae was also clear, plainly requesting that the Index of Prohibited Books be subjected to a recent revision and redaction (30). Several Bishops from Italia and other regions concurred with this (31). Indeed, all of these, considering the course of human ingenuity, the laws of civil society, and the customs of the people, rightly demand and are in accordance with the maternal charity of the Holy Church. For in such a rapid progress of knowledge, there is no field of science in which letters do not run wild;

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hence the daily influx of the most pernicious books. Moreover, what is more serious, the public laws not only connive at this, but give great license to it. Therefore, having considered these inconveniences, we deemed it necessary to do two things, from which a certain and clear rule for acting in this matter would be provided to all. First, the Index of books of disapproved reading should be carefully examined. Subsequently, when it is ready, we ordered that it be made known to the public. Furthermore, we added our intention to the very Regulations themselves, and we decreed that, while preserving their nature, they should be made somewhat more lenient, so that it should not be difficult or arduous for anyone, provided they are not of evil intent, to comply with them (32). In this, we not only follow the example of our predecessors, but we imitate the maternal concern of the Church, which desires nothing so much as to impart its benevolence and to heal its children from within.

[*Latin ed. p. 43*]

POPE LEO XIII. 43 has always cared for, and continues to care for, those afflicted with weakness, diligently and with great affection. Therefore, after mature deliberation, and with the assistance of the Most Reverend Cardinals of the Sacred Congregation for the Index of Prohibited Books, We have decided to publish general decrees, which are written below and are joined with this Constitution; by which the aforementioned Sacred Congregation shall henceforth use only these, and all Catholic people throughout the world shall religiously obey them (33). We wish these alone to have the force of law, abolishing the rules issued by order of the most holy Council of Trent, the Observations, the Instruction, the Decrees, the Warnings, and any other things established by Our predecessors concerning this matter, except for the Constitution of Benedict XIV, *Sollicita et provida*, which, as it has been in force until now, We wish to remain in force in its entirety in the future (34).

GENERAL DECREES

Concerning the Prohibition and Censorship of Books (38).

TITLE I. Concerning the Prohibition of Books.

CHAPTER I. Concerning books of apostates, heretics, schismatics, and others.

1. All books which, before the year 1600, were condemned by the Supreme Pontiffs or by ecumenical Councils, and which are not included in the New Index, shall be considered condemned in the same way as they were formerly condemned: except for those which are permitted by these General Decrees (39).

2. Books of apostates, heretics, schismatics, and of any writers who promote heresy or schism, or who in any way undermine the foundations of

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the true religion, are absolutely prohibited (40).

[*Latin ed. p. 44*]

44 CONSTITUTION CANONICAL 3. Books written by non-Catholics, which treat explicitly of religion, are prohibited, unless it is certain that they contain nothing contrary to the Catholic faith (41). 4. Books by the same authors, which do not treat explicitly of religion, but only incidentally touch upon truths of the faith, are not prohibited by ecclesiastical law, unless they have been specifically condemned (42). CHAPTER II. Concerning Editions of the original text and of non-common versions of the Holy Scripture. 5. Editions of the original text and of ancient Catholic versions of the Holy Scripture, even of the Oriental Church, published by any non-Catholics, even though they appear to be faithfully and completely edited, are permitted only to those who are engaged in theological or biblical studies, provided that the dogmas of the Catholic faith are not impugned in the introductions or notes (43). 6. In the same manner, and under the same conditions, other versions of the Holy Scriptures, whether in Latin or in any other non-common language, published by non-Catholics, are permitted (44). CHAPTER III. Concerning vernacular versions of the Holy Scripture. 7. Since it is clearly demonstrated by experience that, if the Holy Bible in the vernacular language is permitted everywhere without discrimination, more harm than benefit will result from it due to the recklessness of men; all versions in the vernacular language, even those composed by Catholics, are entirely prohibited, unless they have been approved by the Apostolic See, or have been published under the supervision of Bishops, with notes taken from the Holy Fathers of the Church, and from learned and Catholic writers (45).

[*Latin ed. p. 45*]

POPE LEO XIII. 45, 8. All translations of the Holy Scriptures, made in any vernacular language by non-Catholics, and especially those which are disseminated by Biblical Societies, and which have been condemned by the Roman Pontiffs on more than one occasion, are forbidden, since in them the most salutary laws of the Church concerning the publication of sacred books are entirely disregarded. Nevertheless, these translations are permitted to those who are engaged in theological or biblical studies, provided that they observe what has been established above (n. 5) (46). CHAPTER IV. Concerning Obscene Books. 9. Books which explicitly treat of, narrate, or teach lascivious or obscene matters are altogether prohibited, since, not only is the faith, but also morals, which are easily corrupted by the reading of such books, to be considered (47). 10. Books by authors, whether ancient or modern, whom they call "classics," if they are infected with this very stain of impurity, are permitted only to those for whom the reason of office and of teaching excuses it; but in no way shall they be given or read to

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boys or adolescents, unless they have been purged with diligent care (48). CHAPTER V. Concerning Certain Books of a Special Nature. 11. Books in which God, or the Blessed Virgin Mary, or the Saints, or the Catholic Church and its worship, or the Sacraments, or the Apostolic See are detracted from are condemned. The same judgment of reprobation applies to those works in which the concept of the Sacred Scripture is perverted, or its meaning is unduly restricted. Furthermore, books which, through false representations, harm the ecclesiastical hierarchy, or the clerical or religious state, are also prohibited (49).

[*Latin ed. p. 46*]

46 APOSTOLIC CONSTITUTION 12. It is forbidden to publish, read, or retain books in which sorcery, divination, magic, the evocation of spirits, and other superstitions of this kind are taught, or commended (50). 13. Books or writings that recount new apparitions, revelations, visions, prophecies, miracles, or that introduce new devotions, even under the pretext that they are private, are prohibited if they are published without the legitimate permission of the ecclesiastical superiors (51). 14. Likewise, books are prohibited that declare war, suicide, or divorce to be permissible; those that treat of Masonic sects, or other societies of the same kind, and which contend that these are useful and not harmful to the Church and civil society; and those that defend errors that have been condemned by the Apostolic See (52).

CHAPTER VI. Concerning Sacred Images and Indulgences.

15. Images, in any way printed, of Our Lord Jesus Christ, the Blessed Virgin Mary, the Angels, and the Saints, or of other servants of God, that are contrary to the understanding and decrees of the Church, are altogether forbidden. Moreover, new [images], whether they have annexed prayers or are published without them, shall not be published without the permission of ecclesiastical authority (53).

16. It is forbidden to all to divulge apocryphal indulgences, or those that have been in any way condemned or revoked by the Holy Apostolic See. Those that have already been divulged must be taken away from the hands of the faithful (54).

17. All books, summaries, pamphlets, and folios, etc., in which the concessions of indulgences are contained, shall not be published without the permission of competent authority (55).

CHAPTER VII. Concerning liturgical and devotional books.

18. In the authentic editions of the Missal, the Breviary, the Rituale Romanum, the Caeremoniale Episcoporum, the Pontificale Romanum,

[*Latin ed. p. 47*]

POPE LEO XIII, and other liturgical books approved by the Holy Apostolic See, no one shall presume to alter; if otherwise, these new editions

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are prohibited (56). 19. All litanies, except the most ancient and common ones, which are contained in the Breviaries, Missals, Pontificals, and Rituals, and except the litanies of the Blessed Virgin, which are usually recited in the Sacred Shrine of Loreto, and the litanies of the Most Holy Name of Jesus, which have already been approved by the Holy See, shall not be published without revision and approval by the Ordinary (57). 20. No one shall publish, without the license of legitimate authority, books, or pamphlets, of devotion, or of religious instruction, moral, ascetic, mystical, or of any similar nature, even though they appear to contribute to the fostering of the piety of the Christian people; otherwise, they shall be prohibited (58). CHAPTER VIII. Concerning Diaries, Leaflets, and Periodicals. 21. Diaries, leaflets, and periodicals, which, through their content, attack religion or good morals, shall be considered prohibited, both by natural law and by ecclesiastical law. However, Ordinaries shall take care, where it is necessary, to warn the faithful opportunely of the danger and harm of such reading (59). 22. No Catholic, especially no cleric, shall publish anything in such diaries, or leaflets, or periodicals, unless prompted by a just and reasonable cause (60). CHAPTER IX. Concerning the faculty of reading and retaining prohibited books. 23. Only those who have obtained appropriate permissions from the Apostolic See, or from those to whom it has delegated its authority, shall be able to read and retain books, whether specifically or generally prohibited by these General Decrees (61). 24. The Roman Pontiffs grant licenses to read and retain any prohibited books in the Sacred Index.

[*Latin ed. p. 48*]

48. APOSTOLIC CONSTITUTION. The aforementioned Congregation shall have precedence. Nevertheless, both the Supreme Sacred Congregation and the Sacred Congregation for the Propagation of the Faith possess authority over the regions subject to their governance. For the City [of Rome] alone, this faculty also pertains to the Master of the Sacred Palace (62). 25. Bishops and other Prelates, possessing quasi-episcopal jurisdiction, may grant permission for particular books, and only in urgent cases. However, if they have obtained from the Apostolic See the general faculty to grant permission to the faithful to read and retain prohibited books, they shall grant such permission only with discretion and for a just and reasonable cause (63). 26. All those who have obtained an apostolic dispensation to read and retain prohibited books cannot, therefore, read and retain any books whatsoever, or periodicals prohibited by the local Ordinaries, unless it has been expressly stated in the apostolic Indult that they have the power to read and retain books condemned by anyone. Furthermore, those who have obtained permission to read prohibited books must remember that they are bound by a serious obligation to keep such books in such a way that they do not come into the hands of others (64). CHAPTER

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X. Concerning the denunciation of pernicious books. 27. While it is the duty of all Catholics, and especially those who excel in doctrine, to report pernicious books to the Bishops or to the Apostolic See; this duty pertains in a special way to Nuncios, Apostolic Delegates, local Ordinaries, and Rectors of Universities flourishing in the pursuit of knowledge (65). 28. It is advisable that in the denunciation of pernicious books, not only the title of the book be indicated, but also, insofar as possible, the reasons should be explained for which the book is considered worthy of censure. Those to whom the denunciation is presented shall take care to keep the names of the denouncers secret (66).

[*Latin ed. p. 49*]

POPE LEO XIII. 49 29. Ordinaries, even as Delegates of the Apostolic See, should strive to prohibit and remove from their Diocese books and other writings that are harmful, whether published or disseminated therein. They should submit to the Apostolic judgment those works or writings that require more subtle examination, or in which the judgment of the highest authority seems necessary to achieve a salutary effect (67). TITLE II. Concerning the Censorship of Books. CHAPTER I. Concerning Prelates entrusted with the censorship of books. 30. It is clear from what is stated above (n. 7) that the power to approve or permit the publication and versions of sacred books belongs to those to whom it has been entrusted (68). 31. No one should dare to publish again books that have been prohibited by the Apostolic See; and if, for a grave and reasonable cause, some particular exception in this matter seems admissible, it will never be granted unless prior permission has been obtained from the Sacred Congregation of the Index, and with the conditions prescribed by it observed (69). 32. Matters pertaining in any way to the causes of Beatification and Canonization of the Servants of God cannot be made public without the approval of the Congregation for Sacred Rites entrusted with their protection (69). 33. The same applies to collections of decrees of individual Roman Congregations; these collections cannot be published unless prior permission has been obtained, and with the conditions prescribed by the moderators of each Congregation observed (70). 34. Vicars and Missionaries Apostolic must faithfully observe the decrees of the Sacred Congregation for the Propagation of the Faith concerning the publication of books (71). Acts, Vol. XXX, page 349.

[*Latin ed. p. 50*]

50 APOSTOLIC CONSTITUTION 35. The approval of books, concerning which the censure of the present Decrees is not reserved to the Apostolic See or to the Roman Congregations, pertains to the Ordinary of the place where they are made public (71). 36. Regulars, besides the license of the Bishop, are to remember, according to the decree of the Holy Coun-

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cil of Trent, that the faculty of publishing a work must be obtained from the Prelate to whom they are subject. Both concessions must be printed at the beginning or at the end of the work (72). 37. If an author residing in Rome wishes to print a book not in the City, but elsewhere, besides the approval of the Cardinal Vicar of Rome and the Master of the Sacred Apostolic Palace, nothing else is required (73). CHAPTER II. Concerning the Office of Censors in the Preliminary Examination of Books. 38. Let Bishops, whose duty it is to grant the faculty of printing books, take care to employ men of piety and doctrine to examine them, concerning whose faith and integrity they can be assured, who will give nothing to favor or disfavor, but, having set aside all human affections, will consider only the glory of God and the benefit of the faithful people (74). 39. Censors are to know that it is their duty to judge, with the mind free from all prejudices (according to the precept of Benedict XIV), concerning various opinions and sentiments. Therefore, they must cast aside the affections of nation, family, school, or institution, set aside the study of particular interests, and keep before their eyes only the dogmas of the Holy Church and the common doctrine of Catholics, which are contained in the decrees of the general Councils, the Constitutions of the Roman Pontiffs, and the consensus of the Doctors (75). 40. After the examination is complete, if nothing appears to obstruct the publication of the book, the Ordinary shall grant the author, in writing and entirely gratuitously, permission to print the license for publication at the beginning or at the end of the work (76).

[*Latin ed. p. 51*]

POPE LEO'S DECREE

CHAPTER Concerning Books Subject to Prior Examination

51. XIII. 3.

41. All the faithful are bound to submit, for prior ecclesiastical examination, at least those books which concern the Divine Scriptures, Sacred Theology, Ecclesiastical History, Canon Law, Natural Theology, Ethics, and other similar religious or moral disciplines, and generally all writings in which matters of religion and the honesty of morals are especially involved (77).

42. Clergy of the secular state should not publish, without the consent of their Ordinaries, even books which treat of mere natural arts and sciences, so that they may give an example of obedience to them. They are also prohibited from undertaking the management of newspapers or periodicals without the prior permission of their Ordinaries (78).

CHAPTER Concerning Printers and Publishers of Books

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43. No book subject to prior ecclesiastical examination shall be printed, unless at the beginning it bears the name and surname of both the author and the publisher, as well as the place and year of printing and edition. If, however, for just reasons, the name of the author should seem to be withheld, it is left to the Ordinary to decide whether this is permissible (79).

44. Printers and publishers of books should know that new editions of the same work require a new approval; moreover, this approval does not extend to a translation of the original text into another language (80).

45. Books condemned by the Apostolic See are to be considered prohibited everywhere and in every language (81).

46. Booksellers, especially those who boast of being Catholic, are prohibited from selling books that are manifestly obscene.

[*Latin ed. p. 52*]

52. APOSTOLIC CONSTITUTION concerning those who neither buy, sell, nor retain [books]: Others are prohibited from having sales, unless they have obtained permission from the Sacred Congregation of the Index through the Ordinary, nor shall they sell to anyone unless they can prudently judge that it has been legitimately requested (82).

CHAPTER V. Concerning the penalties established in the General Decrees for transgressors.

47. All and each who, without the authority of the Apostolic See, knowingly read books of apostates and heretics that promote heresy, as well as books of any author specifically prohibited by Apostolic Letters, and who retain, print, and in any way defend such books, incur excommunication, reserved in a special manner to the Roman Pontiff (83).

48. Those who, without the approval of the Ordinary, print or cause to be printed books of the Sacred Scriptures, or their annotations or commentaries, incur excommunication, not reserved to anyone (84).

49. But those who have transgressed other things that are prescribed in these General Decrees, shall be seriously admonished by the Bishop, according to the gravity of the offense; and, if it seems opportune, they shall also be restrained by canonical penalties (85).

We decree that these letters and everything contained in them can never, at any time, be declared invalid or void, or impugned for any reason or defect; but that they shall always be valid and remain in full force, and that they shall be inviolably observed by all, of whatever rank and standing, both in judgment and outside of it; and that they shall be declared null and void if anyone, through any authority or pretext, knowingly or unknowingly, should attempt to alter them in any way, notwithstanding anything to the contrary.

We wish that copies of these letters, even printed ones, be signed by the

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hand of the Notary and promulgated by this Constitution.

[*Latin ed. p. 53*]

OF POPE LEO XIII. 53. Therefore, let those men who are invested with ecclesiastical dignity be considered as having the same authority as those to whom Our will is signified in these present documents. Therefore, no human being shall be permitted to violate this page of Our constitution, ordinance, limitation, derogation, or will, nor to dare to contradict it with reckless audacity. — But if anyone should presume to attempt this, let him know that he will incur the wrath of Almighty God and of the blessed Apostles Peter and Paul. Given in Rome, at Saint Peter's, in the year of the Incarnation of the Lord one thousand eight hundred and ninety-seven, on the eighth day before the Kalends of February, in the nineteenth year of Our Pontificate (1).

A. CARD. MACCHI

A. PANICI

Subdatarius
VISA
DB
CURIA

I. DE AQUILA

E VICECOMITIBUS

Loco >$i Plumbi Reg. in Secret. Brevium

I. CUGNONIUS

(1) The years are counted from the Incarnation of the Lord, the beginning of which is taken from the twenty-fifth of March.

[*Latin ed. p. 55*]

55 COMMENTARY {The notes correspond to the numbers inserted in the text). (1) Matthew XXVIII. 19. (2) 1 Timothy III. 15. (3) Ephesians IV. 14. (4) John XXI. 15. 17. (5) 1 Peter V. 2. (6) The Most Holy Pope, from the beginning, laments the evils which pernicious books inflict upon both faith and morals. Indeed, Pope Pius IX, in the year 1846, in his encyclical letter *Qui pluribus*, lamenting these very evils, wrote: "The contagion of the most terrible volumes and pamphlets, cleverly composed and full

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of deceit and artifice, and disseminated everywhere at enormous expense throughout the Christian people, spreads pestilent doctrines, corrupting the minds and souls of the unwary, and causing great harm to the Religion." He renewed these complaints on June 20, 1868, when, by the Bull *Aeterni Patris*, he convened the Vatican Council. For, among other things, he laments the impious books of every kind and the pestilent periodicals spread everywhere. (See Ap. Cecconi. *Storia del Concilio Vaticano*, Vol. 1, p. 385. *Acta et Decreta Concilii Vaticani*, p. 3). But, setting aside the testimonies of Catholic men, it is best to hear what the heretic Abraham a m Le Moine wrote in the year 1730 about the evils that pernicious books brought to England: "Such books, when they fall into the hands of countless people, produce infinite harm. And this is all the more so, as they appear, at first glance, to be adorned with a commendable purpose. Against incredulity, which openly reveals itself, everyone turns. But these authors, under the guise of presenting the evangelical truth, undermine its very foundations, destroy its principles, and omit nothing to make its arguments seem highly suspect. They exude a poison, all the more lethal, the more subtle and hidden it is. For a long time, deluded men drink it in; but they see nothing, because they suspect nothing. They also mix in flattery and learning, so that they may better ensnare them."

[*Latin ed. p. 56*]

COMMENTARY: The novelty and superficiality of modern instruction, the excessive inclination towards vice, make it no surprise that books of this kind corrupt the minds and hearts of those who read them carelessly. The arguments of the unbelievers involve the readers, remove their scruples, and finally, unexpectedly, they become unbelievers. From this, unrestrained freedom of the mind necessarily creates an irresistible license of the heart: this indulges in passions and expands the dominion of vices. Therefore, it can truly be said that this great city (London) has never been more corrupted than it is today. Indeed, almost all the states and kingdoms of Europe are unfortunately infected with this corruption; but they would undoubtedly be even more so if they possessed the same freedom as we do in thinking, writing, and reading. From St. Alphonsus Liguori, Book I, Treatise II, on Laws, Appendix III, On the just prohibition and abolition of books forbidden for reading, Chapter I, paragraph IV. The arguments, by which all are deterred from reading wicked books, are summarized from St. Liguori, in the cited passage, and from Francisco Antonio Zaccaria, in his work, by the Reverend Bouix. They are as follows:

1. From the general human proclivity to conform to the doctrines and morals of those with whom they associate and converse. But reading wicked books is the same as conversing with the wicked authors; indeed, it is much more dangerous, since the written words excite and affect the mind more.

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2. Because books exercise a certain authority, to whose authority readers usually yield.

3. Because wicked books are inherently suited to undermine faith and morals.

4. Because most readers lack the knowledge and moral virtue necessary to read wicked books without the danger of corruption.

5. Because experience shows that many have been led into heresy and apostasy because of the reading of a single wicked book. Let the following examples be cited: in the 2nd century of the Church, Bardesanes; in the 3rd century, many Christians who, through the reading of the books of Nepos, the Bishop of Egypt, embraced the errors of the millenarians, and Manes, from whom the Manichaean sect originated; in the 4th century, Spain and Narbonne in Gaul, which embraced the heresy of Priscillian through books disseminated there; in the 5th century, Eutyches, who, through the reading of a certain Manichaean book, was transformed into a heresiarch; we pass over many others in silence. Cf. Zaccaria and Bouix, in their works, cited above.

From the Acts of the Apostles and from the Apostle Paul, we present the following testimony: "And many of them who had followed curious arts brought together their books and burnt them before all. And, counting the price of them, they found the money to be fifty thousand pieces of silver." (Acts 19:19).

[*Latin ed. p. 57*]

COMMENTARY O 57. Timothy, guard the deposit, avoiding profane novelties of words, and oppositions to the false science. 1 Timothy 6:20. But avoid profane and empty chatter; for they will increase to impiety, and their speech is like a cancer. 2 Timothy 2:16-17. 8. The manner of acting and the sentiments of the Fathers, as well as the commands and judgments of the Bishops, are to be read in Liguori and Zaccaria, as already mentioned. We shall present one or another. Cyprian wrote to Pope Cornelius: "If, at any time, things written by the rash temerity of some are to be read among us, we do not permit it." P.L. III, 728. When the defenders of Origen asserted that the writings of great men had been corrupted by heretics, and that it was not fitting to condemn both good and bad things, Sulpicius Severus relates in his Dialogues, I, n. VI, that Theophilus of Alexandrinum, with his suffragans, decreed that all things should be condemned. Against this, some Bishops more stubbornly resisted, forcing, as far as they could, to condemn even the good things together with the bad, and with the author himself, because there were sufficient books received by the Church; and that the reading of anything that would be more harmful to the simple than beneficial to the wise should be utterly rejected. P.L. XX, col. 188. But let no one conclude from this that the condemned errors are to be attributed to Origen. 9. I can begin with the Council of Nicaea I (year 325), from

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whose Fathers, as Nicephorus Callistus relates in his Ecclesiastical History, book VIII, chapter 18, the books of Arius were condemned. Thalia... and furthermore, if anything else of his or of his followers were to be found written, it was decreed that it should be consigned to the flames. P.G. Tom. 146, col. 74. In the Council of Carthage I V, which was held in the year 398, we read in Canon XVI: "The Bishop shall not read the books of the Gentiles, but those of heretics, if necessity and time permit." Mansi III, 952. In the ecumenical Council of Ephesus (431), Liberatus writes in his Breviarium, chapter X, that the books of Nestorius were condemned. The followers of Nestorius, seeing that the books of that man could not be publicly presented, because the Synod of Ephesus had already condemned them, and because it was forbidden by imperial law for anyone to read or defend them, P.L. Tom. 68, col. 989-90. Furthermore, it is well known that in the Council V (year 553), the writings of Theodorus of Mopsuestia, Theodoritus of Cirene, and hi-

[*Latin ed. p. 58*]

58. A historical commentary refutes the celebrated letter against Saint Cyril of Alexandria and the Bishops of Edessa, which are found under the title of Three Chapters. "Therefore, we condemn the aforementioned Three Chapters, that is, the impious Theodorus of Mopsuestia, along with his writings, and those writings which the impious Theodoretus wrote, and the impious letter which is said to be from Edessa, and the defenders of these." Mansi IX, 376. In the Sixth Council (year 680), in the thirteenth act concerning the writings of the Monothelites, it was decreed that they should be handed over to the fire. And we have foreseen the first and soul-destroying ones, so that, for their complete extermination, they may be consumed by fire. And they were burned. Mansi XI, 582. Setting aside other matters, it is well known that in the Council of Constance, held in the year 1414, the books of Wycliffe and John Hus were condemned. And concerning that session, the thirteenth, we read. Therefore, in the name of our Lord Jesus Christ, this holy Synodus, ratifying and approving the aforementioned sentences of the Archbishops, and of the Council of Rome (held in the year 1413 by John XXIII), condemns the aforementioned articles, and each of them, the books, dialogues, and trialogues of the same Wycliffe, and other books, volumes, treatises, and writings of the same author, whatever name they may be called, which here are to be understood as sufficiently expressed, and by this perpetual decree, condemns them, and prohibits to all the faithful the reading, doctrine, exposition, and citation of these books, and of each of them, under pain of anathema, forbidding all and each Catholics henceforth to dare to publicly preach, dogmatize, hold, or in any way allege these articles, or any of them, except for the purpose of their condemnation, as has been said. Ordering that the aforementioned books and treatises, volumes, and writings be publicly burned, as had been

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decreed in the Roman Synodus. Mansi XXVII, 634. Concerning the books of John Hus, it is decreed: This most holy Synodus condemns and rejects the aforementioned books, and the doctrine, and each of those treatises, and writings, whether written in Latin, or in the Bohemian vernacular by him, or translated into any other language by others, or by him, and decrees that they be publicly and solemnly burned in the presence of the clergy and the people in the city of Constance and elsewhere; adding that, because of the foregoing, all of his doctrine is and deserves to be considered suspect of heresy, and should be avoided by all the faithful.

[*Latin ed. p. 59*]

COMMENTARY 59: And that this pernicious doctrine may be eliminated from the midst of the Church, this Holy Synod absolutely commands, through the local Ordinaries, that treatises and writings of this kind be diligently examined by the ecclesiastical censorship, even if the work is already published, and that those found to contain heresy, with the addition of penalties and excommunication, be publicly burned. Furthermore, the same Holy Synod decrees, through the local Ordinaries and the Inquisitors for heretical depravity, that proceedings be initiated against anyone who has violated or disregarded this judgment or decree, just as if they were suspected of heresy. Mansi XXVII, 752-753. After these things, it is clear that it belongs to the power of the Church to condemn harmful books, as evidenced by the testimony of Scripture, the judgment of the Fathers, the acts of the Councils, and the most ancient and constant custom. Indeed, even Luther himself acknowledged this custom, when he wrote to Spalatin. It is an ancient example and an ancient custom to burn infected and wicked codices, as we read in the Acts of the Apostles, 10. Anastasius did this in Rome in the year 400, or 401, as he himself testifies in his letter to Simplicianus, the Bishop of Mediolanensem, in which he says, § II: "Having been convened by letters, I commend your piety, so that, as we, being situated in the city of Rome, have condemned... and have declared to be alien and condemned everything that was once written by Origen, which is contrary to our faith." He presented certain chapters of blasphemy, which we not only abhorred and denounced, but if any other passages are presented by Origen, you should know that, along with their author, they are condemned by us. Migne, P.L., XX, 74-76. 11. When the African bishops feared that the Pelagian heresy would spread throughout Africa and almost the entire world, they sent the book of Pelagius to Innocent I, the Roman Pontiff, in the year 417, so that he might condemn it with an anathema. Innocent himself responds in Epistle 31, n. 5, that he has done so. Indeed, the book, which is said to be his, was sent to us by your charity: in which we read many things written against the grace of God, many blasphemies, nothing that is pleasing, and almost nothing that does not thoroughly displease, and which must be condemned and

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trampled upon by anyone. P.L., XX, 596. 12. Prosper of Aquitaine testifies to this in his Chronicle, writing in the year 443, n. 749: "At this time, many Manichaeans were within..."

[*Latin ed. p. 60*]

60. A commentary reveals that the city was diligently investigated by the Pope, Leo, who exposed their secrets and made public before the entire Church all the abominations and errors of their dogma; their codices, of which great numbers had been seized, were burned. This care, which appeared to have been divinely inspired in the holy man, proved to be of great benefit, not only to the city of Rome, but to the entire world. For, through the confessions of those captured in the city, it was revealed who their teachers were, whether bishops, priests, or presbyters, and in which provinces or cities they resided. And many priests from the eastern parts imitated the industry of the apostolic leader. P. L. Vol. LI, col. 600, 13. Decrees of this nature are found in the writings of Gelasius, P. L. Vol. LIX, pages 158 and 162, and in Mansi, Vol. VIII, pages 146 and 150. We now refer to the final part of the decree concerning books that are not to be received, which is inscribed: "Knowledge of apocryphal books which are not received." "These, and all those similar to them, which were taught by Simon Magus, Nicholas, Cerinthus, Marcion, Basilides, Ebion, Paulus Samosatenus, Photinus, and Bonosus, and those who fell into similar error; Montanus also, with his most obscene followers, Apollinaris, Valentinus, or Manichaeus, Faustus, Africanus, Sabellius, Arius, Macedonius, Eunomius, Novatus, Sabbatius, Callistus, Donatus, Eustathius, Jovian, Pelagius, Julianus Eclanesis, Caelestinus, Maximinus, Priscillianus from Hispania, Nestorius of Constantinople, Maximus, Unicus, Lampetius, Dioscorus, Eutyches, Peter, and another Peter, of whom one defiled Alexandria, and the other Antioch; Acacius of Constantinople, with his associates; and also all these heresiarchs, and their disciples, or schismatics, whose names are scarcely remembered; all of these have not only been rejected, but have also been banished from the entire Roman, Catholic, and apostolic Church, and we declare that, along with their authors and the followers of those authors, they are eternally condemned under the unbreakable bond of anathema." P. L. Vol. LIX, page 164. 14. Among the Roman Pontiffs who condemned the monothelitic error, Martin I. and St. Agatho stand out; the former, through various letters, and especially at the Lateran Council held in the year 649; the latter, in the synodal letter to the Fathers of the Sixth Council, and to Emperor Constantine Pogonatus, which were read, Action IV, Mansi XI, 234. We now quote the words of one Martin, who is in Canon XVIII.

[*Latin ed. p. 61*]

COMMENTARY 61 states: "If anyone, in accordance with the Holy Fa-

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thers, agrees with us in faith, and with both soul and mouth rejects and anathematizes all those whom we reject and anathematize, namely, the most infamous heretics, along with all their impious writings, down to the very last one, [and] the Holy Catholic and Apostolic Church... this is Theodorus, formerly Bishop of Pharanita; Cyrus, of Alexandria; Sergius, of Constantinople, or his successors, Pyrrhus and Paul, remaining in their perfidy, and all their impious writings, and those who, like them, obstinately persist in error, or err, or hope to err, that is, [those who] deny the one will and the one operation of the divinity and humanity of Christ, and, furthermore, that most impious schism, which, through the persuasion of the aforementioned Sergius, was brought about by Heraclius, the former emperor, against the orthodox faith, [and] who venerate the one will of Christ God, and the one operation, defined in harmony; but also all that was wickedly written or done by them for that purpose; and, with them, that infamous doctrine, which, through the persuasion of the aforementioned Paul, was recently introduced by the most serene Emperor Constantine against the Catholic Church, namely, two natural wills and operations, the divine and the human, which the Holy Fathers piously proclaim in Christ God, our true and Savior, [along with] the one will and operation, which the heretics impiously venerate in Him, [and] who, therefore, unjustly free from all reprehension and condemnation, both the Holy Fathers and the wicked heretics, [and] who, in this way, mutilate the definitions, or the rule, of the Catholic Church. Therefore, if anyone, according to what has been said, agrees with us in all these most impious dogmas of those heretics, and in those things that were written for them, or defined in their definition by anyone impiously, and [if] he does not reject and anathematize Theodorus, Cyrus, and Sergius, Pyrrhus, and Paul... let him be condemned." Mansi X, 1158-1159.

15. Peter Abelard had many errors. Among them:

a) That the Father possesses full power, the Son possesses some power, and the Holy Spirit possesses no power.

b) That the Holy Spirit is not of the substance of the Father or the Son.

c) That the Holy Spirit is the soul of the world.

[*Latin ed. p. 62*]

62 COMMENTARY

d) That Christ did not assume flesh in order to liberate us from the yoke of the devil.

e) That neither God and Man, nor this person who is Christ, is the third person in the Trinity.

f) That we did not contract guilt from Adam, but only punishment, etc. Mansi XXI, 568.

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However, Innocent II, Pope, condemned all of Abelard's errors, as is evident from his letter written in the year 1140 to Henry, Bishop of Sens, Raynald of Rheims, and Saint Bernard of Clairvaux, Abbot: "We... after deliberation with our brother Bishops and Cardinals, and having received certain points from your judgment, and all of Peter's dogmas, we have condemned them with the authority of the holy Canons, along with their author, and we have imposed perpetual silence upon him. We also believe that all who follow and defend his errors should be separated from the communion of the faithful and bound by the bond of excommunication." Mansi XXI, 565.

Then, he ordered Raynald of Rheims, Henry of Sens, and the aforementioned Saint Bernard to have the books of Abelard and Arnold of Brescia handed over to the flames: "By this present writing, we command to your Fraternity that Peter Abelard and Arnold of Brescia, fabricators of perverse dogmas and opponents of the Catholic faith, be separated and enclosed in religious places, wherever it may seem best to you, and that the books of their errors, wherever they may be found, be burned with fire." Mansi, ibid., 16.

The errors of Marsilius of Padua were recounted in summary by Natalis of Alexander in *E Historia Ecclesiastica*, Centuries XIII and XIV, Article III; among other things, he taught:

a) That Christ, ascending into heaven, did not establish any visible head in the Church, nor did He leave any Vicar.

b) That the Popes are to be subjected to the Emperor, to be deposed and punished.

c) That the Emperor can succeed the Pope, and that the Church, when the See is vacant, can be governed by him.

d) That all priests, whether Popes, Bishops, or simple Presbyters, are of equal authority by the institution of Christ; and that if one has more power than another, it is to be attributed to the Emperor, who can grant it freely, and can also revoke it at his pleasure.

[*Latin ed. p. 63*]

COMMENTARY 65 e) It belongs to the prince to judge the capacity of those to be promoted to the Holy Orders, and it is not permitted to the Bishop to promote anyone without his authority, etc., etc. But John XXII, on the tenth day before the Kalends of November in the twelfth year of his pontificate, that is, on October 22nd, in the year 1327, condemned the errors of Marsilius of Padua, which had been previously enumerated and refuted, in the Constitution beginning with "Licet." As Raynaldus recounts in the year 1327, number X, and as Anthony Zaccaria recounts and illustrates with learned notes in his work, page 93. This is what the Pope decreed: "We declare manifestly and notoriously, by sentence, that the aforementioned

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articles, as being contrary to Holy Scripture, and enemies of the Catholic faith, are heretical, or heretical and erroneous; and we declare manifestly and notoriously, indeed as ringleaders of heresy, the aforementioned Marsilius and John (Iohannum), and we condemn by sentence the aforementioned articles and book, and also any other writing containing the same; and we declare the aforementioned Marsilius and John as manifest and notorious heretics, indeed rather as ringleaders of heresy, and we condemn them by sentence. If anyone should presume to defend or approve the aforementioned doctrine, of whatever dignity, order, or status, let him be refuted by all as a heretic." 17. It is known from his Bull "Inter cunctas" issued in the year 1418, that the books of Wycliffe, Huss, and Jerome of Prague were condemned, not only by the Fathers of the Council of Constantiensis, but also by Martin V, and that among other things, § 4 reads: "By apostolic authority, we commit and command that you, Archbishops, and Bishops, and Elects, and each of you, either by yourselves, or by others, or by those whom we deem to be grave and suitable persons, examine all and each of whatever dignity, office, eminence, status, or condition, and by whatever name they may be called, who think, or teach, otherwise concerning the most excellent, salutary, and wondrous Sacrament of the Body and Blood of our Lord Jesus Christ, or concerning baptism, or the confession of sins, or the imposition of penance for sins, or concerning the other ecclesiastical Sacraments, or concerning the articles of faith, than the Holy Roman Church preaches and observes, or who hold, or possess, the articles or books, and the doctrines of the aforementioned heresiarchs, John Wycliffe, and John Hus, and Jerome, which, as is said, were condemned by the same Council of Constantiensis, along with their authors."

[*Latin ed. p. 64*]

64 COMMENTARY: "Those who presume to believe and to assert dogmas, or who publicly or secretly, in any way whatsoever, praise or approve of the heresiarchs, and their recipients, defenders, and supporters, even through contemplation of the aforementioned errors, as well as those who believe in and adhere to them, you shall judge as heretics, and you shall hand them over to the secular court." Bullar. Rom. Vol. IV, page 666, Edit. Taurin. 1859.

18. The art of typography was invented in the first half of the 15th century by Johann Gutenberg, a citizen of the city of Moguntia (Mainz), although its invention is also attributed to others. (Cf. Cantu Storia Universale VI, 451-452).

19. Alexander VI, on June 1, 1501, established several salutary regulations concerning the printing of books in Constitutions, beginning with the words "Inter multiplices." Among other things, he decreed: "Since the art of printing books is considered very useful for the easier multiplication of approved and useful books, it would be very harmful if those who practice

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this art were to pervert it, printing widely what is pernicious. Therefore, printers themselves must take appropriate measures to prevent them from printing anything that is contrary to the Catholic faith, or that is objectionable, or that could reasonably cause scandal among the faithful. Wherefore, we, who hold this office on earth, who have descended from heaven to illuminate the minds of men and to exterminate the darkness of errors, having learned with faithful understanding that through the aforementioned art, many books and treatises have been printed in various parts of the world, especially in the provinces of Coloniensi (Cologne), Moguntina (Mainz), Trevirensi (Treves), and Magdeburgensem (Magdeburg), containing various errors and pernicious dogmas, even harmful to the Christian religion, and that these are being printed widely every day, desiring to prevent such detestable things from continuing without further delay, and as we are bound by the office entrusted to us from above, we decree that all and each of the printers of said art, and those who assist them in any way, and who practice their printing art in the aforementioned provinces, shall be subject to the penalty of excommunication, which they will incur immediately if they act contrary to this. And a monetary penalty shall be imposed by our sellable Brothers, the Archbishops of Coloniensi (Cologne), Mogutiensem (Mainz), Trevirensem (Treves), and Magdeburgensem (Magdeburg), or their Vicars General or Officials in spiritual matters, whichever of them is appropriate in their province, at their discretion."

[*Latin ed. p. 65*]

COMMENTARY 65: "Concerning matters to be addressed and applied by the Congregation for the Propagation of the Faith and the Apostolic Camera, by the authority of the present document, we strictly forbid, under pain of penalty, that anyone henceforth presume to print or have printed in any way, books, treatises, or any writings whatsoever, unless they first consult on this matter with the aforementioned Archbishops, Vicars, or Officials, and obtain their special and express permission, the burden of whose consciences we impose, so that before granting such permission, they diligently examine what is to be printed, or have it examined by experts and Catholics, and they diligently take care to ensure that nothing is printed that is contrary to orthodox faith, impious, or scandalous.

And because it would be insufficient to merely prevent future publications, unless those already known to contain errors, impiety, and scandal are suppressed, we command, by the aforementioned authority, that the same Archbishops, Vicars, or Officials, in their respective provinces, diligently warn and require, by our authority, the presentation and consignation before them, within a term they shall determine, of all and singular inventories of books and treatises of every kind that have been printed, and of printed books and treatises that, through the aforementioned Archbishops, Vicars, or Officials, or any of them, are found to contain anything

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contrary to the Catholic faith, impious, objectionable, scandalous, or of a bad reputation, or have been declared to be so, all fraud and deceit being set aside; and that, under the same sentence of excommunication and a monetary penalty to be determined by them, as may be incurred, they should also endeavor to bring to them and denounce for burning any other printed works that they may deem expedient, so that no one may presume to read or possess them, under similar censures and penalties, by our authority; nor should they fail diligently to inquire who procured the printing of such books, and for what reason, to the detriment of the Catholic faith which they profess; and whether the procurators themselves are suspected of heresy, and to rebuke and punish, with all due severity, any and all persons, whatever their dignity, rank, order, or condition, as well as communities, universities, and other colleges, by means of excommunication, suspension, interdict, and other ecclesiastical censures, with the addition of penalties, with the possibility of appeal deferred, and even, if necessary, with the aid of secular authority." Ap. Zaccaria, Op. cit., page 134-135. Acts, Vol. XXX, n. CCCXLIX. 5.

[*Latin ed. p. 66*]

66 COMMENTARY: Pope Leo X, on the aforementioned day of May 4, 1515, confirmed this very matter through the Constitution *Inter sollicitudines*, so that, indeed, it would not be permitted for anyone to publish books without the authorization of either the Master of the Sacred Palace, or the respective Ordinary.

§ 2. "Therefore, so that that which is beneficial for the glory of God, for the increase of the faith, and for the propagation of the arts may not be turned to the contrary, and may not cause detriment to the salvation of the Christian faithful, We have deemed it necessary to take care regarding the printing of books, so that henceforth, good things may not be mingled with evil, nor poisons mixed with medicines. Wishing, therefore, to provide a remedy for this at the appropriate time, and with this sacred Council (the Lateran Council V) approving, so that the business of printing such books may prosper more and more as, from now on, more skillful, diligent, and cautious investigation is applied, We decree and ordain that, from now on, for all future times, no one shall presume to print any book, or any other writing, either in our City, or in any other cities or dioceses, unless first, in the City, through Our Vicar and the Master of the Sacred Palace; and in other cities and dioceses, through the Bishop, or another who possesses the expertise in the printing of such books, appointed by the same Bishop, and the inquisitor of heretical depravity of the city or diocese in which such printing is to take place, shall carefully examine them, and, through their own signatures, under the penalty of excommunication, shall approve them freely and without delay." *Bulla Rom.*, Vol. V, 624, cited edition, 20.

After the Lutheran heresy arose in the year 1517, in the *Bulla Euerge

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Domine*, which Pope Leo X issued on June 15, 1520, and after he had exerted every effort, but in vain, to convert Luther, he condemned his forty-one propositions, and forbade, under established penalties against heretics, that any Christian faithful should read books published by Luther:

§ 3. "Furthermore, We forbid, under all and each of the aforementioned penalties, to all and each of the aforementioned Christian faithful, that the writings, even those not containing the aforementioned errors, composed by the same Martin, or to be composed or published, or any of them, be treated as if they came from a man hostile to orthodox faith, and therefore, vehemently..."

[*Latin ed. p. 67*]

COMMENTARY 67: "Let it be understood that, in order that the memory of this man may be utterly erased from the communion of Christians, it is forbidden to read, assert, preach, praise, print, publish, or defend him, whether by himself or by others, directly or indirectly, tacitly or expressly, publicly or secretly, or in their own homes or in other public or private places, in any way whatsoever; indeed, let those who presume to do so be excommunicated." *Bulla Romana*, V, 755, *Editio citata*. Since neither Luther nor the Lutherans heeded the warnings of the Roman Pontiff, nor accepted the penalties imposed, but rather, they cast off the yoke of authority, Clement VII, and subsequently other Popes, in the year 1524, included Luther among those heretics who were publicly and solemnly excommunicated in the aforementioned Bull, and forbade his books in every way: "And those who read, or keep in their homes, or print, or in any way defend, the books of Martin Luther, or of any others of the same sect, without our authority and that of the Apostolic See, for any reason, publicly or secretly, under any pretext or guise whatsoever, shall be excommunicated." Paul III, in the year 1536, added: "and generally, all defenders of these same [Lutherans]." *Bullaria Romana*, VI, 219, 21. In the year 1557, Paul IV entrusted the Congregation of the Supreme Inquisition with the task of compiling an Index of prohibited books; which was indeed published with this title: "Index of authors and books who, as heretics, or suspected persons, or as harmful, are condemned by the office of the Holy Roman Inquisition, and are forbidden throughout the Christian Republic." Thus it was arranged. "First, are listed the names, or more common surnames, of those who, as openly erring and leading others into error, are considered to be the most harmful, along with all their writings, whatever the subject matter, as being most pernicious. "Next, are listed books published by known authors, arranged in such a way that they either lead to heresy, or to some form of superstitious impiety, or obscene wickedness, or to utterly intolerable errors, which have been sufficiently and thoroughly demonstrated. "Finally, are listed the titles of books which are mostly written by uncertain

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heretics, and filled with the most pestilent doctrines."

[*Latin ed. p. 68*]

68 COMMENTARY. When the Index presented to the Pope was deemed unsuitable, in the year 1558, he ordered another to be prepared, which, however, was published in February of the year 1559, with this title: "Index of authors, and books, which are forbidden by the office of the Holy Roman and Universal Inquisition to all and each in the entire Christian Republic, under penalties against those who read or possess prohibited books, as expressed in the Bull, which was read at the Lord's Supper, and under other penalties contained in the decree of the same Holy Office. The Index was published by Anthony Bladus, a printer of the Imperial Chamber, by order of the Holy Office, in Rome, in the year of Our Lord 1559, in the month of January." However, some complained that this Index was drawn up with excessive severity, and that it included several books that could be tolerated. Therefore, Paul IV, on June 24, 1561, ordered Cardinal Michael Ghislieri, who was then the Supreme Inquisitor, and who later became St. Pius V, to moderate the severity, which was done with a broad edict, entitled: "Moderation of the Index of Prohibited Books." It was decreed: 1. "That books should be removed from the Index which have been prohibited for no other reason than because they were printed by suspected printers." 2. "That Catholic versions of the works of Doctors should be removed if they were made by heretics, provided that the heresies are removed." 3. "That books of Catholics should not be prohibited for any other reason than because they contain the prefaces, summaries, and notes of heretics; such books should be purged and tolerated." Cf. Zaccaria, *Op. cit.*, p. 145, and following pages. 22. Much effort was devoted in the Council of Trent to the preparation of an Index of books forbidden for reading. Various opinions of the Fathers are recounted by Cardinal Pallavicino in *Storia del Concilio di Trento*, Book XV, Chapter 19. However, the Fathers, in the session held on February 26, 1562, promulgated the following: "The most holy, ecumenical, and general Tridentine Synod, legitimately convened in the Holy Spirit... having first of all observed that the number of suspicious and pernicious books, containing impure doctrine, has increased exceedingly, which is the reason why many censures have been issued in various provinces, and especially in the venerable city of Rome, with pious zeal, and yet this has not provided any remedy for this great and pernicious evil; it decreed that selected Fathers should diligently consider what should be done about censures and books, and that they should report the same to the Holy Synod in due time."

[*Latin ed. p. 69*]

COMMENTARY 69: "So that it may more easily separate various and foreign doctrines from the wheat of Christian truth, and may more conve-

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niently deliberate and decide upon these matters, which appear to be more suitable for removing scruples from the minds of many and for eliminating the causes of many complaints. All of these things are to be brought to the knowledge of those concerned, as is also stated in the present decree, so that, if anyone believes that something pertains to them in any way, whether concerning these books and censures, or concerning other matters which were to be discussed in this general Council, they may not hesitate to be heard benevolently by the Holy Synod."

It is evident that the elected Fathers diligently applied themselves to completing this work, since on December 4th of the year 1563, they had already completed it, as is clear from the continuation of the last session, which was the XXV, in which we read: "The Holy Synod, in its second session held under the most holy Lord Pope Pius IV (which is the XVIII), entrusted certain elected Fathers with the task of considering what should be done regarding various censures and books, whether suspected or pernicious, and of reporting to the Holy Synod. Now, seeing that this work has been brought to its completion by them, and yet, because of the variety and number of books, it is not possible for the Holy Synod to distinctly and conveniently judge them, it commands that whatever they have accomplished be presented to the Most Holy Roman Pontiff, so that it may be concluded and clarified by his judgment and authority."

However, these Fathers not only prepared an Index of books, but also compiled ten rules, which are called the Tridentine Canons.

23. Pope Pius IV, after receiving the Index, subjected it to a new and careful examination, and finally confirmed it with a Bull of the flock of Dominic on March 24, 1564, on which day the Index was published with the following title: "Index of prohibited books, with rules compiled by the Fathers elected by the Trent Council, approved by the authority of His Holiness Pope Pius the Most Holy."

Following the Index, Pope Pius IV communicated the following sanction: "We hereby approve this Index together with the rules attached to it, with the authority of the Apostolic See, and we command that it be printed and disseminated, and that it be received by all Catholic universities and by all others everywhere; we command that these rules be observed; we forbid all and each, whether ecclesiastical persons of any order, status, and dignity, or laypersons of any honor and dignity."

[*Latin ed. p. 70*]

70 COMMENTARY: "Concerning these matters, let no one dare to read any books contrary to the prescriptions of these Rules, or to the prohibitions themselves. "But if anyone should act contrary to these Rules and prohibitions, he who has read the books of heretics, or the writings of any author suspected of heresy or of a false doctrine, shall, by the very law, incur the penalty of excommunication, and it shall be permissible to

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inquire into and proceed against him for this reason, as if he were suspected of heresy, in addition to other penalties established by the Apostolic See and the sacred canons. But he who has read books prohibited for another reason, besides the guilt of mortal sin, shall be severely punished at the discretion of the Bishops." (Bullar. Rom. VII, 281, 1882). Franciscus Foreiro, a member of the Order of Preachers, who had been appointed by the Secretaries to the esteemed Fathers' Commission, wrote the following concerning the method used in compiling the Index: "Therefore, it must be observed above all that each letter of the alphabet has three classes. "In the first class are not so much the books themselves, but the authors of books, who are either heretics, or suspected of heresy. "For it was necessary to draw up a catalog of these, so that all may understand that the writings of these are not only prohibited from being published, but also from being read. "But it must also be noted that, although many others could rightly be included in this class, the Fathers did not intend, nor did it pertain to their purpose, to investigate them all; but they were content with those who are described in the Roman Catalog; and concerning other authors of the same kind, the same should be determined by the Ordinaries and Inquisitors. "In the second class are not the authors, but the books themselves, which, because of the doctrine they contain, which is either not sound, or suspect, or which can even cause offense to the faithful in matters of morals, are rejected, even if the authors from whom they came have never been condemned by the Church. "The third and final class includes those books which have appeared anonymously among the people, and which contain the doctrine that the Roman Church has decreed to be contrary to the Catholic faith, or to the integrity of morals, and which must be refuted and rejected."

[*Latin ed. p. 71*]

COMMENTARY 71: "For not all books which do not bear the name of the author were considered to be condemned, since we know of many learned and holy men who, so that the Christian Republic might benefit from their vigilance, avoided empty glory by publishing excellent books without a name, but only those which contain either clearly false, or doubtful, doctrines of the faith, or are pernicious in morals." Cf. Zaccaria, *Op. cit.*, p. 151, 152. The ten rules of Trent were abolished by this Constitution of Leo XIII. Those who wish to know them should consult any Index of Prohibited Books.

24. Clement VIII wished to publish and promulgate, under his own name, a new Index of books, increased in number and divided into various parts, having issued a Constitution for this purpose, the Sacred Deposit of the Catholic Faith, on October 17, 1596 (1). Clement prefixed certain observations to the fourth and ninth rules of Trent, and an Instruction for those who were to diligently and faithfully perform their duties in

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prohibiting, expurgating, and even printing books, which are prefixed to the Index of Prohibited Books. The Index compiled by him bore this title: "Index of Prohibited Books, with Rules compiled by the Fathers chosen by the Council of Trent, first published by authority of Pius IV, and afterwards augmented by Sixtus V, and now, by order of His Holiness Pope Clement VIII, revised and published. With an Instruction on the enforcement of the prohibition, and on the sincere correction and printing of books." Rome, at the Royal Printers, 1596. Alexander VII, through the Index compiled by himself, accomplished two things: he included in it all the books which were contained not only in the Index of Clement VIII, but also those which had been prohibited from the year 1596 to the year 1664. Furthermore, he removed the divisions of the Indexes of Pius IV and Clement VIII, which caused considerable confusion, and arranged them in alphabetical order. Then, on March 5, 1664, he confirmed the Index compiled by himself through the Constitution *Speculatores*. The following Pope gave this reason for removing the classes: "Moreover, it is added that that distinction of classes often deceived not only the unlearned, but also the learned, since they judged the importance to be estimated from their order of connection, as if a more severe action were always taken with those who came before." (1) *Bullar. Rom. X, 251. Edit. Taurin.*

[*Latin ed. p. 72*]

72 COMMENTARY: "Regarding the books of later classes, rather than those of earlier classes, it can easily be understood from the very institution of these classes, which was established by the Council of Trent, that while the distinction is made solely between books of authors condemned for vice, fault, or pernicious doctrine, and for the errors contained therein, and between those who prefer or conceal the author, it happens that many books by unknown authors, which are assigned to the third class, are far worse than those listed in the first or second classes" (1). Furthermore, Alexander VII, applying Rule X of the Tridentine Canons, decreed that "those living in the State immediately subject to the Holy Apostolic See cannot transmit books composed by them for printing elsewhere, without express approval, and in writings of the Most Eminent and Most Reverend Lord Cardinal, Prefect of the Sacred Palace, if they are in the City; and if they are outside the City, without the authority and license of the Ordinary of that place, or of those appointed by him to undertake this work." However, Rule X of the Tridentine Canons applied only to books printed in the City. The method used in preparing the preceding Indexes did not entirely please Benedict XIV; therefore, he decided to prepare a new Index, and to give certain rules to those who are entrusted with the examination of books. He did this in the year 1758, when it was published: *Index librorum prohibitorum Sanctissimi D. N. Benedicti XIV Pontificis

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Maximi iussu recognitus atque editus*. Rome, 1758, from the Printing Press of the Reverend Apostolic Chamber, with the privilege of the Supreme Pontiff; but this was accomplished through the Constitution *Sollicita ac provida*, which was indeed issued on July 9, 1753, but published on the 23rd day of the same month and year. Benedict XIV gave the reasons for preparing a new Index in certain briefs issued in the form of a *Brevis* on December 23, 1757, in which he said: "Firstly, (the Index) was established by the wise Fathers of the Tridentine Synod with the public authority of the Church, and Pope Pius IV perfected it with the best rules and promulgated it with apostolic authority. Then, Pope Clement VIII wished to publish and promulgate an Index, increased in number and divided into various parts, under his own name (in the year 1596, by the Bull *Sacrosanctum fidei catholicae depositum*). Although, according to the conditions of the times, it was sufficiently diligently..." (1) Bullar. Rom. XVIÏ, 234. Naples, 1882.

[*Latin ed. p. 73*]

COMMENTARY 75: "And it has been diligently labored upon in order that it might be useful in those matters; however, long observation and experience have shown that the aforementioned Indices were neither sufficiently accurate, nor sufficiently adapted for use; therefore, it seemed to be for the public good that a new Index, digested with a more suitable method and corrected of the many errors that had crept into the previous ones, should be established. We had already foreseen this work, which is undoubtedly full of labor and diligence, when we laid down certain rules for the examination and publication of books in Our Constitution, which begins *Sollicita ac provida*, July 7, 1753. This matter has therefore been carefully discussed by Our Venerable Brothers, Cardinals of the Holy Roman Church, to whom the Congregation for the Index of Books was entrusted, who, with zeal and skill, and also with the assistance of learned and diligent men, have diligently and accurately completed all things according to Our wishes. The Index of Pope Benedict XIV, which has been used until this time, has only been augmented by an alphabetical series of recently condemned books. But to the Index compiled by Benedict XIV, in addition to the aforementioned Constitution *Sollicita ac provida*, other Decrees concerning prohibited books not specifically mentioned in the Index have also been added, which are divided into four classes. These are: 1. Books written, or published, by heretics, or prohibited as pertaining to them or to infidels. 2. Books of certain arguments that are prohibited. 3. Images and Indulgences that are prohibited. 4. Certain matters pertaining to the sacred rites that are prohibited. These can be read in the edition we suggest of the *Index Librorum Prohibitorum* of the Most Holy Lord Pope Leo XIII, Supreme Pontiff, published in the year 1881. Therefore, these classes were instituted because not all books which are prohibited by Apostolic Constitutions, or by Decrees of the Holy Office and the Index, could

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be individually described in the Index due to their great number; it was therefore deemed necessary to refer them to certain headings, so that if something concerning a particular book is not described in the Index, or is not included in the rules of the same Index..."

[*Latin ed. p. 74*]

74. A comment might arise, raising the doubt, whether it should be considered among those who are prohibited.

25. The eternal law is that each authority should only exercise that which God has instituted and ordained for it, and should not exceed its limits. Hence, Pope Gelasius I, in the year 494, wrote these words to Emperor Anastasius: "Indeed, there are two, most august Emperor, by which this world is principally governed: the authority of the Pontiffs and the royal power. And the weight of the priesthood is much greater, inasmuch as they will render an account to the Lord for these very things in the divine judgment. You know, most clement son, that although you preside over the human race in dignity, you nevertheless submit your neck to those who are devoted to the divine things, and you seek from them the causes of your salvation, and you know that you ought to be subject to them in the heavenly matters, and to dispose of things according to their will, rather than to preside over them, according to the order of religion. Therefore, understand that you depend on them in these matters, and they do not wish to be reduced to your will. For, inasmuch as they know that the empire has been entrusted to you by a higher disposition, the ministers of religion themselves obey your laws, so that they may not appear to be hindering the public order in worldly matters; and, I pray, with what affection should you obey those who are appointed to administer the venerable mysteries? Therefore, just as a great distinction lies with the Pontiffs, in that they strive for the worship of God, which is fitting; so, it is not a small danger for those who, while they ought to obey, despise [them]. And if it is fitting for the faithful to subject their hearts to the priests in general who rightly treat divine matters, how much more should the consent of the prelate of that See be given, whom all the priests and Divinity itself wished to be preeminent, and whose general piety the Church has always celebrated?" (Migne, P. L., LIX, 42).

These very words that Gelasius wrote to Emperor Anastasius, the Supreme Princes themselves have affirmed to be true. Lewis the Pious, King of the Franks, did not hesitate to write to Pope Eugene II in the year 824, that kings ought to help the prelates: "Because we have truly learned that we are debtors to those to whom the governance of the churches and of the Lord's flock has been entrusted, we must offer them help and assistance in all matters pertaining to divine worship, according to the quality of our strength, and the capacity of our understanding." (Mansi,

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XV, 437).

[*Latin ed. p. 75*]

COMMENTARY 75. In the year 869, Emperor Basil the Macedonian, addressing the Fathers assembled in the Eighth Council, spoke thus: "It has not been granted to the laity, or to those bound by civil duties, according to canon, to speak at all concerning ecclesiastical matters; for this is the work of Pontiffs and Priests. And as for you, laity, whether you hold positions of dignity or are completely engaged in secular affairs, what more can I say to you, except that in no way are you permitted to speak of ecclesiastical matters; for it is the duty of Patriarchs, Pontiffs, and Priests to investigate and inquire into these things, who have the power to sanctify, to bind, and to loose, who have received the keys to ecclesiastical and heavenly matters; it is they who must feed us, who must sanctify us, who must bind us, and from whom we must be loosed." Mansi XVI, 187, 188. Oh, that those who judge the world would understand this at some time! 26. And these are, above all, rules that, due to the additions of modern times, cannot be observed. Canon X of Trent, for example, states: "In each city and diocese, the printing houses and places where books are sold must be frequently visited by persons appointed for this purpose by the Bishop or his Vicar, and also by the Inquisitor of heretical depravity, so that nothing that is prohibited may be printed or kept. All booksellers and those who sell books must have in their shops an index of the books for sale that they have, with the signature of the aforementioned persons, and they must not have or sell, or in any way give, any other books without the permission of the same appointed persons, under penalty of the loss of the books and other penalties at the discretion of the Bishops or Inquisitors." And other things are imposed in the same canon. These, in fact, could not be observed at all in many European states; for this reason, they necessarily fell into disuse, with the knowledge and tolerance of the Roman Pontiffs and the Bishops of those places. 27. Pope Pius IX, in the encyclical letters given on June 2, 1848, to the Bishops and others who were in charge of the censorship of books in the temporal dominions of the Holy See, spoke at length about Canon X of Trent. For it states: "In Session X of the Council of Lateran V, and again in the collection of Indian Regulations, which were written by the Fathers appointed by the Council of Trent, and approved by Pope Pius IV, of glorious memory, and also in others..."

[*Latin ed. p. 76*]

76 COMMENTARY: "It is decreed by the sanctions of the Roman Pontiffs that 'no books or writings whatsoever shall be published, unless they have first been examined and approved by ecclesiastical authority.' Indeed, the eagerness to write and read, and the number of books, especially ephemeral publications, increases daily in this age, so that it becomes

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exceedingly difficult for ecclesiastical censors to examine all of them with due diligence, and a wider path is opened for those who seek to spread perverse doctrines and things harmful to the public good through small books, especially those published clandestinely, the impropriety of which causes greater offense to the faithful and scandal, which, if brought before the procedures of the current canons, would be rightly judged and approved.

Considering these matters seriously, and after consulting with some of Our Most Reverend Brothers, Cardinals of the Holy Roman Church, and with the Decretum of the Fourth Session of the Council of Trent before Our eyes, where special sanctions are read concerning the publication and dissemination of books on sacred matters, We have decided to mitigate, in part, the aforementioned rules, so that ecclesiastical censors may more diligently fulfill their office within stricter limits, lest it easily happen that those things which appear to have been approved by their judgment are, at least in part, fraudulently escaped from their censure, or have not been sufficiently examined by them.

Therefore, by Our own initiative and by Our Apostolic authority, We decree and permit, that the Decrees of the Lateran Council and the other aforementioned sanctions be moderated and declared, so that, henceforth, and until otherwise determined by this Apostolic See, ecclesiastical censors in places subject to Our temporal jurisdiction shall be concerned only with those matters that pertain to the Divine Scriptures, Sacred Theology, Ecclesiastical History, Canon Law, Natural Theology, Ethics, and other similar religious or moral disciplines, and generally with all those in which religion or the honor of morals are specifically involved.

Accordingly, We decree and permit that in every type of periodical and book, only those that contain moral or religious arguments, as We have said, may be published without prior ecclesiastical censure; in others, only those articles that have a similar argument, or that closely touch upon the cause of religion or the honor of morals.

[*Latin ed. p. 77*]

COMMENTARY 77: "By virtue of this permission, it will be permitted to no one to publish again, nor to publish in any other language, those books and writings which have been condemned and prohibited by previous decrees of ecclesiastical authority, or which will be prohibited in the future. But if anyone should again publish or disseminate such writings or books, or in any other way violate the aforementioned canons and the sanctions of this Holy See, which are not permitted by these letters, they shall be subject to the same censures and penalties that were established in the aforementioned sanctions. For we wish those same sanctions to remain firm, in those matters in which We have not made any derogation, and We reaffirm them with Our apostolic authority. We also specifically

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confirm the monetary penalty prescribed in the aforementioned Decree of the Council of the Lateran V; however, We mitigate it to such an extent that, even in the most serious cases, the sum shall not exceed one hundred solidi of the common Roman currency; and We command that this sum be disbursed at the prudent discretion of each Bishop of Usküb for pious purposes."

28. We record the following appropriate information from the votes of the Consultors appointed: The first question to be resolved was: "Whether it is fitting, or expedient, or necessary to subject the Rules of the Sacred Synodus Tridentinae, issued by order of the Index, to some modifications or adjustments; and, assuming that certain adjustments seem necessary, in what manner could this be done: namely, either by changing the words of the Rules themselves, as was proposed to Us formerly by the Most Reverend Summus Pontifex Sixtus V, who intended to add more necessary things to these rules; or, leaving these venerable words untouched and immutable, as they have been for three centuries, to provide for new adjustments, as the Apostolic See has done up to this day, namely, through the Instruction of Clement VIII, which contains all those things that Sixtus V considered necessary; through the observations of Clement VIII and Alexander VII; through the addition of Benedict XIV; through the Mandate of Leo XII; through the warnings of Gregory XVI; through general decrees; or finally, through some other special, temporary, and ad hoc remedy, namely, by granting certain faculties to the bishops, so that through them, for a certain time, dispensations may be granted in those matters which, due to the extreme misfortune of times, cannot be brought into use and practice in certain provinces and kingdoms?"

[*Latin ed. p. 78*]

78 COMMENTARY: We record what the chosen Consultors decided concerning the proposed question, according to the report of the Secretary. "The Consultors discussed this matter at length and carefully, considering various opinions. Some considered that greater agreement would be given to the veneration due to the Holy Council of Trent, if the Rules were preserved, and if changes or explanations were proposed separately by the Fathers in a future Synod for consideration; another part of the Consultors considered this approach to be fraught with very serious difficulties. Indeed, they observed that many of the decrees of the Council of Trent, which were appropriate for the time, are now useless, or even entirely impossible, so that the laws cannot be applied, or do not serve their purpose. Nor would it suffice to add or explain certain things; rather, serious antinomies would arise, and confusion would increase. The Holy Synod of Trent would suffer no less injury; for it is not, strictly speaking, its fault if some of the things it wisely established are now, with entirely changed circumstances, altered; and this is especially true since, strictly speaking, these Rules were not es-

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tablished by the Synod itself, but were sanctioned afterwards, according to its intention, but not by its direct authority. Furthermore, the forthcoming ecumenical Council has every right to be equal to the Council of Trent. This opinion pleased many." 29. It is best to quote part of these letters, so that I may understand the reasons why the Bishops of France instituted such a petition. "To anyone reading the rules of the Index of prohibited books, which are called general, it will easily appear that, from those rules, many, although those that were established in a wise age, are now, with the state of human society, and especially of literature, changed everywhere and fundamentally, partly already quite useless, partly extremely difficult to observe, and some even impossible. Hence, the consciences of Catholics are burdened more than is just, with countless scruples, and are exposed to very serious temptations, the laws being so little adapted to the present state of affairs that they must be set aside. Therefore, it is absolutely necessary and urgent that those rules and the entire Index be reformed in a completely new way, better suited to our age, and with easier observance." Collection Lacensis VII, 843. 30. Several Bishops from Germany, among others, and the Index...

[*Latin ed. p. 79*]

COMMENTARY 79. They demanded that "the Indian Rules, which 'partly in mixed regions were never entirely observed,' and partly 'owing to the completely altered condition of human society, and especially of literary affairs, cannot now be observed almost anywhere,' and therefore cause many anxieties of conscience and doubts for confessors, be submitted to a recent revision and redaction." Ibid., 874, IV, 31. Cf. Collectionem Lacensem, Ibid., col. 1020, a, and 1179, 32. The matter was handled as follows. In the year 1895, towards the end, the Supreme Pontiff Leo XIII entrusted the Sacred Congregation of the Index with the task of deciding whether the Indian Rules should be revised. The question posed was: Whether and in what way the Indian Rules should be reformed. The Consultors, questioned on the first part, answered affirmatively. To bring the second part to fruition, the Sacred Congregation chose four Consultors, to whom it entrusted the task of dealing with the proposed matter. These two drafted schemes, which were first discussed in several sessions with two others, and then presented to the entire Congregation through the Roman Secretary. The Pontiff chose other Consultors to examine the scheme. Each of these, after a review, presented their opinion in writing; and the matter was then returned to the four Consultors originally appointed. Having performed their task, taking into account the criticisms and observations made, they revised the first scheme to some extent. Then, at the command of the Pontiff, the entire matter was entrusted to the Most Eminent Cardinals of the Sacred Congregation of the Index. The Fathers, in numerous sessions under the Eminent Prefect,

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diligently applied themselves to examining and revising the presented scheme. After the Rules were completed, the Supreme Pontiff, with the mature judgment with which He is endowed, considered them, approved them, and ordered them to be promulgated.

33. When the Roman Pontiff commands that Catholics throughout the world should religiously obey these decrees, it is necessary that all customs introduced in any kingdom in which the Indian obligation was disregarded be abolished. Catholics diligently remember the words of the Pontiff, and these rules are much milder than the ancient ones; and to obey them, unless there is a malicious intent, can be a difficult and arduous task for no one. This is what we say regarding the enactment of the broad Constitution. But whether any nations will be required to give obedience to the pontifical decree, or rather, whether the custom introduced by them regarding the Indian obligation will be abolished, remains to be seen.

[*Latin ed. p. 80*]

80. COMMENTARY: By what force are they defended? We do not know. However, in this case, we believe that the people of those nations should not be disturbed; for it is better to show leniency and tolerance than to openly defy and bring about the ruin of souls. Nevertheless, it would be most advisable for the Bishops to consult the Holy See, and to obtain, through established custom, a dispensation of tolerance.

34. Pope Pius IX, in the Apostolic Constitution, had limited the severity of certain censures, but not the ancient laws and decrees by which they were imposed; and therefore, other penalties that did not have the nature of censures could not be considered abolished. Indeed, he decreed that the censures which he himself included in his Constitution should have force, not only as if they were first published therein, but also by the authority of the ancient canons, to the extent that they were in accordance with the broad meaning of his Constitution. Therefore, with regard to the censures added and preserved by Pope Pius IX, both the ancient laws and the censures were entirely in force; and thus, the commentators on the excellent Constitution of Pius IX also derived the force of the renewed censures from the ancient canons.

However, Leo XIII considered it necessary to depart from such a course of action, lest difficulties, questions, and antinomies arise; hence, he abrogated all the ancient laws, rules, and decrees that were placed before the books of the Index, as well as those that he himself renewed. From this, two things follow: first, that all that he established derives its force from a single Constitution concerning Offices and Duties that he issued; and second, that the criteria for interpreting it should be sought in the language he himself used. Therefore, if any doubt arises concerning the force and extent of any word or decree, even those found in the ancient laws, the method of interpreting them should not be sought from those laws, since they have

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been abrogated, but from the obvious meaning of the words of the new Constitution, and from the purpose which the Legislator intended. Since it is clear from the very Pope himself that he intended to make the legislation concerning the Rules of the Index of prohibited books more lenient, so that it would be easy and not burdensome for anyone to observe them, it would be entirely wrong to want to set aside the Constitution of Leo XIII based on the ancient laws. For it is clear what the purpose and intention of the Legislator were; therefore, the decrees issued by him should be understood in accordance with that purpose and intention; it is clear that he abolished the old rules and decrees; therefore, they should no longer be considered as arguments for resolving doubts, if.

[*Latin ed. p. 81*]

COMMENTARY 81, arising from the Constitution concerning Offices and Duties. Hence, if a doubt arises concerning whether a decree issued by Leo XIII should be understood in a stricter or milder sense, interpreters should always follow the milder interpretation. However, it does not follow that anyone can appeal to abrogated laws, so that the force of a word or sentence contained in the Leonine Constitution may be better understood; for this is both permitted and sometimes necessary, especially if there is no difference between the two texts. We say this: in the case of conflicting decrees, it is not in accordance with law or reason to interpret a new law by means of an abrogated old law. However, Leo XIII makes an exception to the abrogated old law, namely the Constitution *Sollicita ac provida* issued by Benedict XIV, which prescribes the method to be followed in the examination and proscription of books; therefore, we insert this entire text into this Commentary. BENEDICT, BISHOP, SERVANT OF THE SERVANTS OF GOD, FOR PERPETUAL REMEMBRANCE. The predecessor of our Roman Pontiffs, *Sollicita ac provida*, has always been vigilant in ensuring that the faithful are protected from the reading of books from which careless and simple people might suffer some harm, and be imbued with opinions and doctrines that are contrary to either the integrity of morals or the dogmas of the Catholic religion. For, as we believe that no one is ignorant of the most ancient decree of Saint Gelasius I., and that which has long since been established by Gregory IX and other Pontiffs on this matter; we do not think that anyone is ignorant of what our predecessors, Pius IV, Saint Pius V, and Clement VIII, diligently accomplished, so that the most salutary work undertaken by the Fathers of the Holy Council of Trent, carefully discussed, and almost brought to completion, concerning the preparation and publication of an Index of prohibited books, would not only be completed, but would also be enriched with the wisest decrees and rules. This business is continuously urged and promoted by the Apostolic See; to this end, two Congregations of Cardinals of the Holy Roman Church have been appointed, to whom the task of investigating harmful writings

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has been entrusted, *Acta, Tom. XXX, fasc. CCCXLIX, 6*.

[*Latin ed. p. 82*]

82. A commentary, and the examination of books, is assigned, in order that it may be determined which books are to be corrected, and which are to be condemned. This duty was entrusted by Pope Paul IV. to the Roman Congregation of the Universal Inquisition (35), and it is still exercised by that body, when matters concerning books pertaining to certain categories of subjects are to be judged. It is certain that Pope Saint Pius V. was the first to institute the Index Congregation, (36) which was subsequently confirmed by the following Popes, Gregory XIII., Sixtus V., and Clement VIII., who endowed it with various privileges and faculties: and its proper and unique office is to call books for examination, concerning which deliberation must be held regarding their condemnation, correction, or permission.

§ 1. We believe that no one doubts that the deliberation concerning the condemnation or approval of books is carried out in the Congregation of the Universal Inquisition with due deliberation, counsel, and prudence; indeed, we ourselves have clearly observed, and long experience has confirmed, this. For in minor roles, we have examined certain books in that congregation, and for a long time we performed the duties of a consultant in that same congregation; finally, having been co-opted among the Cardinals of the Holy Roman Church, we obtained the position of General Inquisitor in it; and finally, through merits, though unequal, we were raised to the Apostolic See, and we have not only read and considered the observations of censors concerning certain books, but we have also become accustomed to hearing and considering the opinions and votes of the Cardinals in the Congregations, which are held before us on certain Fridays, before any decision is made concerning those books.

We can bear witness to no less diligence, and indeed we ought to, concerning the other Congregation of the Index, to which, as we have said above, it generally pertains, to decide concerning the condemnation of any books. For while we were in minor roles, we not infrequently held the office of the first, or second, censor, or relator, in that congregation; but since we have held the highest office, we have not approved the condemnation of any book, unless we have heard from the secretary of the Congregation, who accurately explained to us the subject matter of the book, the observations of the reviewers, the judgments, and the votes of the Cardinals.

§ 2. But since it has come to our knowledge, and we have explored, that many condemnations of books, especially those written by Catholics, have sometimes been brought about by public and unjust complaints, as if these matters were treated carelessly and superficially in our tribunals; we have

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considered it worthwhile,

[*Latin ed. p. 83*]

COMMENTARY 83. By this Constitution, which shall remain perpetually in force, we propose certain and firm rules, according to which the examination and judgment of books shall henceforth be conducted; although it can plainly be affirmed that, in the same manner, or with equivalent means, this has already been done for a long time.

§ 3. Furthermore, the Congregation of the Holy Roman Inquisition consists of several Cardinals chosen by the Supreme Pontiff from the Holy Roman Church, some of whom are distinguished for their knowledge of sacred theology, others for their doctrine of canon law, others for their expertise in ecclesiastical matters, for the exercise of their duties in the Roman Curia, and finally, for their prudence and integrity. To these are added one of the prelates of the Roman Curia, whom they call the Assessor, and also one master of sacred theology from the Order of Preachers, whom they call the Commissary; and a certain number of consultants, who are taken from both the secular and regular clergy; and finally, outstanding men of learning, who, having been ordered by the Congregation, examine the books, and to whom the title of "qualifier" is given. In this Congregation, which deals with various and most serious matters, especially with matters of faith and with those accused of crimes against religion, if a book is brought before it, deemed worthy of condemnation, unless the Congregation refers the matter to the Index, as is often the case, but rather deems it necessary to examine it itself, according to the circumstances, we order that judgment be conducted in this manner and with this method, in accordance with the decree issued by the same Congregation on the fourth day before the Kalends of July in the year one thousand seven hundred and fifty, and confirmed by us on the following fifth day.

§ 4. Firstly, a book is given to one of the qualifiers or consultants designated by the Congregation, who reads it with careful attention and examines it diligently; then he records his censure in writing, indicating the passages and pages in which the errors are found. Soon, the book, with the annotations, is sent to the individual consultants, who, according to custom, in the Congregation held every second day in the buildings of the Holy Office, express their opinion on the book and the censure: then the censure, along with the book and the votes of the consultants, is sent to the Cardinals, so that these, in the Congregation which is usually held on the fourth day in the monastery of the Brothers Preachers of Santa Maria sopra Minerva, shall pronounce a definitive judgment on the whole matter. After this,

[*Latin ed. p. 84*]

84 COMMENTARY: All acts of the Assessors of the Holy Office are re-

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ported to the Pope, whose judgment absolves all matters. § 5. Since it is an ancient practice that the judgment of a Catholic book, considered by only one examiner, is immediately condemned; according to the aforementioned decree of July of the year one thousand seven hundred and fifty, We wish this custom to be strictly observed; so that, if the first examiner judges a book to be condemned, even if the consultants agree with that judgment, nevertheless the book, along with the examination, shall be given to another examiner chosen by the same Congregation, the name of the first examiner being suppressed, so that the second examiner may freely express his judgment. If, however, the second examiner agrees with the first, then the observations of both shall be sent to the Cardinals, so that they may decide about the book; but if the second examiner disagrees with the first, and considers the book to be approved (37), a third examiner shall be chosen, to whom, after the names of the previous examiners have been suppressed, both examinations shall be presented. The report of this third examiner, if it does not differ from the opinion of the consultants, shall be immediately communicated to the Cardinals, so that they may decide as they deem fitting. If, however, it differs, then the consultants, after considering the third examination, shall give their vote; and this, along with all the aforementioned reports, shall be presented to the Cardinals, who, after such careful consideration, must finally pronounce judgment on the matter. Whenever the Pope, either because of the importance of the matter discussed in the book, or because of the merit of the author, or for other reasons, has decided that the judgment of the book should be heard before him in a congregation on the fifth day of the week, which We have often done, and which We will do in the future whenever We deem it expedient; then it will suffice to present to the Pope and the Cardinals the examinations of the book and the votes of the consultants, without the examination by the congregation on the fourth day of the week, and without the report that is to be made to the Pope by the Assessor: for the matter will be concluded by the votes of the Cardinals presented before the Pope himself, and by the final judgment, or by some other suitable decision, taken in the same congregation. § 6. Another Congregation, also composed of Cardinals appointed by the Pope, and endowed with the same qualities that the Cardinals of the Holy Office possess; and some of whom may participate in both Congregations. Of these, one is the Prefect of the same Congregation; and the perpetual Assistant is the Master of the Sacred Palace.

[*Latin ed. p. 85*]

COMMENTARY 85. The secretary, from the very institution of the Congregation until the present day, has customarily been chosen from the Order of the Brothers Preachers by the Supreme Pontiff for the time being. Furthermore, there are consultants and reporters selected from both the

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secular and regular clergy of the same Congregation; and indeed, when someone has commendably presented book reports before the Congregation once, twice, or a third time, the Congregation is wont to request the Pope to include him among the consultants by his authority.

§ 7. In the early days of our pontificate, the thought occurred to us to establish a certain and unchanging method for the examination and judgment of books in this Congregation of the Index. Regarding this matter, we not only sought the opinion of our beloved son, Cardinal Angelo Maria, now known as Cardinal Quirini, of the Roman Church, its Librarian, and Prefect of the aforementioned Congregation, who declared his opinion in writing with equal prudence and learning, but we also ordered several older consultants of the same Congregation to convene before our beloved son, Joseph Augustine Orsi, of the Order of the Preachers, who was then secretary of the same Congregation, but is now Master of the Apostolic Palace, and to express their opinion, which was also conceived in writing and presented to us at that time. Now, having carefully preserved all of these things with us, we, resuming our former deliberation, have established by our authority those matters that pertain to the examination and judgment of books in the aforementioned Congregation of the Holy Office; and, wishing to establish, by suitable decrees, also those matters that can be done concerning the Congregation of the Index, and similar business within it, adhering to the advice of the aforementioned Prefect and the opinions of the aforementioned consultants, we decree the following to be observed henceforth.

§ 8. Since the Congregation of the Index is instituted solely for the censorship of books, as has been said, it is not convened as frequently as the other Congregation of the Holy Office, which, due to the multitude of causes and business, is accustomed to be held three times each week; therefore, we entrust and demand that its secretary receive the denunciations of books, as has already been customary. And the secretary, after receiving the denunciations, diligently inquires as to the reasons why the person is requesting the book to be prohibited, and then carefully examines the book itself, so that he may...

[*Latin ed. p. 86*]

86. The commentary shall ascertain the substance of the accusation; and, after consulting with two advisors, chosen by the examiner himself, with the prior approval of the Supreme Pontiff, or the Cardinal Prefect, or of one who fulfills the Prefect's duties: after having received the counsel of these advisors, if the work appears worthy of censure and annotation, a suitable relator, namely, one skilled in the subject matter treated in the book, shall be chosen, in the same manner as we have previously indicated, to present a judgment on it in writing, noting the pages on which the individual points of criticism are contained. But before this censure is presented

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to the Congregation of Cardinals, we wish to have a private meeting of advisors, which was formerly called the "Parva," but which we shall call the "Praeparatoria," so that, after the relator has presented his observations on the book, a judgment may be made on the weight of those observations. This meeting shall be held once a month, or even more frequently if necessary, and shall be convened by the secretary of the Congregation, either in his chambers or in a more suitable place, as he may deem appropriate, within the aforementioned monastery, where he resides. Present at this meeting shall always be the Master of the Sacred Palace currently in office, together with six other advisors, chosen each time, according to the nature of the argument and the subject matter to be discussed, as has been established above for the first two advisors and for the relator; in addition to the secretary himself, whose duty it will be to record the opinions of the advisors, which he will then submit to the Congregation of Cardinals, along with the relator's censure. In the general meeting, all that which has been established above for the Congregation of the Holy Office regarding the examination of books must be observed. Just as it pertains to an assessor of the Holy Office to inform the Supreme Pontiff of the proceedings in the Congregation, so it shall pertain to the secretary of the Congregation of Indices, whenever he has judged a book to be prohibited or amended, to seek the consent of the same Pontiff, after a careful examination of all the reports.

§ 9. Since the Congregation of Indices deals solely with the prohibition of books, we have deemed it necessary to add certain things here, which will be most useful to that Congregation, but which should also be observed by the other Congregation of the Holy Office, whenever it is involved in cases of a similar nature. Whenever a book by a Catholic author of unimpeachable reputation is considered, and...

[*Latin ed. p. 87*]

COMMENTARY 87, whether due to other published works, or perhaps due to the author himself, who is brought to trial, and this one ought to be proscribed; let it be borne in mind the already long-standing custom of prohibiting a book, with the clause added: until it is corrected, or until it is purged, if it can have a place; and nothing of great importance should stand in the way of its being used in the case in question. However, with this condition added to the proscription, the decree is not immediately issued, but the publication of it is suspended, and the matter is first communicated to the author, or to anyone acting on his behalf, and what must be deleted, changed, or corrected is indicated to him. If no one appears on behalf of the author, or if the author himself, or someone acting on his behalf, rejects the ordered correction of the book, then a decree is issued after a suitable and defined time. If, on the other hand, the author, and his representative, comply with the Congregation's instructions, that is, they produce a new

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edition of the book with appropriate corrections and changes, then the decree of proscription is suppressed; unless, perhaps, copies of the previous edition have been widely distributed; in which case, the decree must be published in such a way that everyone understands: that copies of the first edition are prohibited, while copies of the second edition, which have been amended, are permitted.

§ 10. It is known that sometimes, in the case of judgments and proscriptions of books, the authors are not heard, and they are not given any opportunity to defend themselves. However, we know that a response has been given to this complaint: that it is not necessary to summon the authors to judgment, where the matter is not about their persons being noted or condemned, but about safeguarding the well-being of the faithful, and about preventing them from the danger that is easily incurred by reading harmful books; if, however, the author's name should be stained by some disgrace, this is not done directly, but indirectly, as a consequence of the condemnation of the book. For this reason, we consider such prohibitions of books, made without hearing the authors, to be highly objectionable; especially since it is to be believed that whatever the author could have presented on his own behalf, or in defense of his doctrine, would not have been ignored or neglected by the censors and judges. Nevertheless, it is known that, often for reasons of the greatest equity and prudence, this has been done by the same Congregation, and we greatly hope that it will be observed by them in the future, so that when the case involves a Catholic author, of some fame and merit, and his work, after deletions, can be recognized as beneficial to the public, or the author's...

[*Latin ed. p. 88*]

88. He who desires to defend the very essence of his work should either listen to the matter himself, or designate one of the consultants who, by virtue of his office, will undertake the patronage and defense of the work. § 11. As we stated when we were dealing with the Congregation of the Holy Office, we have always been ready to attend, whenever a judgment is rendered concerning a book of more serious importance; which will be easy for us, since the same Congregation is held before us every Thursday; and thus, we are prepared to attend the Congregation of the Index, whenever the gravity of the matter warrants it. For it is not to be said that this work is necessary, unless a book by a heretical man is denounced, in which the author presents or defends errors contrary to Catholic dogma; or unless some work is brought under examination, in which the rules of good morals are undermined, and support is given to vices and corruptions. In these cases, it will be necessary to apply even more carefully those precautions which we have written above; but once heresy in dogma, or a perverse incentive to immorality, is discovered, the decree of condemnation must be immediately enacted, according to the first, second, and seventh Rules of the Index,

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promulgated and published by the decree of the most holy Council of Trent. § 12. Since, in the aforementioned Congregation of the Holy Office, the strictest laws are observed so that no one may speak with another about the affairs of that Congregation outside of it; we command that the same law of silence be religiously observed by the reporters, consultants, and Cardinals of the Congregation of the Index. However, we grant the secretary the power to communicate to the authors of books submitted to censure, or to others acting in their name and requesting it, observations regarding those books, under the same law of the decree; always suppressing the names of the denouncer and the censor. § 13. The following are appropriate for examining and correcting books, and they are contained in the ten Rules of the Index, compiled and published by the Fathers of the Tridentine Synod. In the instruction of the blessed memory of Pope Clement VIII, added to these Rules, Title on the correction of books, § V., it is entrusted to Bishops and Inquisitors to employ pious and learned men for the examination of books to be published, of whose faith and integrity they can be assured, who will not be swayed by favor or hatred, but, adorned with human prudence, will consider only the glory of God and the benefit of the faithful people. With these virtues...

[*Latin ed. p. 89*]

COMMENTARY 89. Concerning the qualities of mind, it is necessary that the revisers and consultants of our Congregation possess, if not a greater, certainly an equal degree of these virtues. And since we are not unaware that all those who now hold such offices are of this character, we hope and pray that those who are chosen in the future will be no less so; namely, men of unblemished lives, of proven doctrine, of mature judgment, of incorruptible character, and detached from all party spirit, and from favoritism towards persons; men who will combine equity and freedom of judgment with prudence and zeal for truth. Since, however, the exact number of such individuals is not yet certain and established, we shall await the counsel of the Cardinals of the same Congregation, and we shall consider whether it is necessary or advisable to define the number for future times; nevertheless, we now decide that their number shall be determined, so that both revisers and consultants shall be chosen from both the secular and regular clergy, some being theologians, others experts in both jurisdictions, and others distinguished by their knowledge of sacred and profane learning, so that from their assembly, suitable men will not be lacking to render a judgment on each book presented to the Congregation.

§ 14. We warn and strongly urge the revisers and consultants, both those who are currently in office and those who may be appointed in the future, to carefully examine and diligently observe the following rules in the examination and judgment of books.

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§ 15. I. They must remember that it is not their duty to simply ensure that the books submitted to them for examination are in compliance with all regulations; but rather, by applying diligent study and a calm mind, they must provide the Congregation with faithful observations and true reasons, from which a just judgment on the book can be rendered, and its rejection, amendment, or acceptance can be determined according to its merits.

§ 16. II. Although it has been and will continue to be carefully ensured that only those who possess a thorough knowledge of the subjects contained in the books submitted for consideration are admitted to serve on the Congregation, for it is fitting that only experts should judge matters pertaining to their own fields; nevertheless, if it should happen that someone, through error, is assigned to consider a matter outside of their particular area of expertise, and this is discovered by the censor or consultant through the reading of the book itself; they must know that they will not be excused, either before God or before men, unless they immediately bring this to the attention of the Congregation, or

[*Latin ed. p. 90*]

90. The secretary should open the commentary, and, having declared himself to be the least suitable for judging such a book, he should take care to find someone more fit for that office; in doing so, he will not only avoid incurring the displeasure of the Pope and the Cardinals, but will also gain praise and commendation for his prudence and integrity.

§ 17. III. They must know that it is their duty to judge, with a mind free from all prejudices, the various opinions and sentiments contained in each book. Therefore, they should cast aside the influence of nation, family, school, or institution; they should separate the study of individual parts; they should keep before their eyes only the sacred dogmas of the Church and the common doctrine of Catholics, which is contained in the decrees of the general councils, the constitutions of the Roman Pontiffs, and the consensus of orthodox Fathers and Doctors; and, considering these things, they should be aware that there are not a few opinions that seem certain to one school, institution, or nation, and yet, without any detriment to the faith or religion, are rejected and opposed by other Catholics, and defended, with the knowledge and permission of the Apostolic See, which leaves each such opinion in its degree of probability.

§ 18. IV. It must also be carefully noted that a correct judgment of the true meaning of the author cannot be made unless the entire book is read; and that everything that is placed and located in different places must be compared with each other; moreover, the author's entire plan and purpose must be carefully considered; and that nothing should be pronounced about him based on a single or double proposition, taken out of its context or considered separately from the other things contained in the same book;

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for it often happens that what the author has said obscurely or indirectly in one part of his work is explained clearly, copiously, and plainly in another part, so that the shadows that obscured the former statement, which presented the appearance of a false meaning, are completely dispelled, and every proposition is recognized as free from all error.

§ 19. If, however, some ambiguous passages occur in the work of an author who is otherwise Catholic and of unimpeachable reputation in matters of doctrine, it seems that justice itself demands that his words be interpreted favorably, as far as possible, and that they be taken in the best sense.

§ 20. The censors and consultants should always keep these and similar rules in mind, which can easily be found among the best writers on this subject; in this way, they will be able to perform this most important task.

[*Latin ed. p. 91*]

COMMENTARY 9: Concerning the judgment of books, one must consider the conscience, the reputation of the author, the good of the Church, and the benefit of the faithful. Two other considerations are entirely appropriate and should be included in this judgment.

§ 21. Sometimes books are published in which false and condemned doctrines, or harmful systems of thought, are presented and discussed as if they were the ideas of others, without the author of such a work taking any care to refute them. Those who do this believe that they are not subject to any reproach or censure, because, as they say, they are not affirming anything themselves, but are merely presenting history. But whatever their intentions or plans may be, and whatever personal objections may be raised against them, it is certainly true that such books bring a great stain and harm to the Christian commonwealth, because they offer poison to careless readers, without any antidote being presented to protect them. This subtle invention of human malice, and this new form of seduction, by which the minds of the simple are easily ensnared, must be carefully examined and subjected to censure; so that such books, if any benefit can be derived from them, may be corrected, or, if they are entirely harmful, may be included in the Index of prohibited books.

§ 22. In the Instruction of our predecessor, Pope Clement VIII, which we praised above, in Title II, chapter 2, it is wisely stated that anything that detracts from the reputation of others, especially of those in the Church and of princes, and that is contrary to good morals and Christian discipline, should be removed. And a little later: "Even jests or sayings that are cast out to the detriment or prejudice of the reputation and esteem of others should be rejected." Oh, that such books would not be published in this time of license and wickedness, in which dissenting authors engage in mutual arguments and accusations; in which the opinions of others, which have not yet been condemned by the Church, are suppressed by censure; in which

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adversaries, and their schools and gatherings, are ridiculed and mocked, to the great scandal of the good, but to the utter contempt of heretics, who, seeing Catholics fighting among themselves and tearing each other apart, are completely triumphant. Although we understand that it is impossible to eliminate all disputes, especially since the number of books is constantly increasing...

[*Latin ed. p. 92*]

92 COMMENTARY: To write many books has no end, as is said in Ecclesiasticus, chapter 12. Furthermore, it has become clear to us that great benefit can sometimes be derived from them; however, we rightly desire to maintain moderation in defending opinions, and Christian restraint in writing. (Augustine says in Enchiridion, chapter 59, near the end:) "It is not in vain that talents are employed, if a moderate discussion is used, and if those who think they know do not err." Those who often seek to excuse the harshness of their writings by claiming a love for truth and a zeal for purer doctrine, should first understand that the importance of truth must be balanced with the gentleness of the Gospel and Christian charity. Charity, indeed, from a pure heart, is patient, is kind, is not envious, does not boast, is not proud, and (as Augustine adds in his book Against the Letters of Petilian, chapter 29, paragraph 31): "presumes not about truth with arrogance, nor contends for truth with malice." This great teacher of truth and charity demonstrated this both in his writings and in his actions. For in his constant conflicts against the Manicheans, Pelagians, Donatists, and others who were hostile to him as well as to the Church, he always took the utmost care not to offend or exasperate anyone with their injuries or accusations. Whoever acts otherwise, whether in writing or in debate, certainly does not show that he holds truth dear, nor that he follows charity.

§ 23. Those also seem to offer an inadequate and unjust excuse who, because of a particular devotion they claim to have for the ancient doctors, believe that this gives them license to write. For if they dare to criticize new ideas, they might have been far less inclined to harm the ancient ones if they had lived in their time; as the author of the unfinished work on Matthew, homily 42, aptly observed: "When you hear someone praising the ancient doctors, examine how he behaves towards his own doctors. For if he supports and honors those with whom he lives, there is no doubt that he would have honored them if he had lived with them; but if he despises his own, he would have despised them if he had lived with them." Therefore, let it be understood by all who write and argue against the opinions of others, what was gravely and wisely prescribed by our venerable predecessor, Pope Innocent XI, in a decree issued on March 2nd of the year 1679.

Finally, let it be understood that doctors, or scholastics, or anyone else,

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should avoid hurtful controversies.

[*Latin ed. p. 93*]

COMMENTARY 95: Let those who are of a harsh disposition abstain, so that peace and charity may be fostered. The Most Holy See likewise commands them, in virtue of holy obedience, to be careful in books, manuscripts, and even in sermons and teachings, to avoid all censure and notes, and all arguments against those propositions which are still disputed among Catholics, until they are recognized by the Holy See, and a judgment is rendered upon them.

Therefore, let the license of writers be restrained; for, as Augustine says, book 12, chapter 25, paragraph 34, those who love their own opinions, not because they are true, but because they are their own, not only disapprove of the opinions of others, but also, uncharitably, criticize and misrepresent them.

It is altogether improper to introduce private opinions as if they were certain and defined dogmas of the Church, and to present opposing views as if they were errors, thereby stirring up disturbances in the Church, creating dissension among teachers, or fostering discord, and often breaking the bonds of Christian charity.

§ 24. The angelic prince of schools and doctor of the Church, St. Thomas Aquinas, although he wrote so many volumes that have never been sufficiently praised, and necessarily offended the opinions of various philosophers and theologians, which he was compelled to refute by the force of truth. However, the praises of this great doctor are wonderfully increased by the fact that he seemed to have no desire to belittle, ridicule, or misrepresent his opponents, but rather to treat them with courtesy and humanity; for if there was anything harsh, ambiguous, or obscure in their words, he would soften and explain it with gentleness and kindness. But if it was necessary, for the sake of religion and the faith, to refute and reject their opinion, he did so with such modesty that he deserved no less praise for disagreeing with them than for upholding the Catholic truth. Those who are so outstanding and are accustomed to boast (and we rejoice in the great number of such individuals, due to our singular devotion and study of him) should set this great doctor as an example, and strive to emulate his moderation and the most honorable way of dealing with and arguing against opponents. Others also should strive to conduct themselves in this manner, even if they deviate from his school and teaching. For the holy men are examples set forth by the Church for all. And since the angelic doctor is inscribed in the book of saints, although it is permissible to think differently from him, it is entirely improper to adopt a contrary approach in one's actions and arguments. It is of great importance to public tranquility, the edification of one's neighbors, and charity, that the writings of Catholics

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should be free from bitterness, acrimony, and vulgarity.

[*Latin ed. p. 94*]

COMMENTARY: These [writings] are entirely foreign to Christian institutions and discipline, and to all honesty. Therefore, the revisers of books should diligently apply censorship to such writings, and they should submit them to the knowledge of the College of Cardinals, so that they may restrain them with zeal and authority.

§ 25. All that we have proposed and established thus far, being entirely in accordance with the decrees of our predecessors, and confirmed by the laws and customs of our own Congregations, we decree, with Apostolic authority, that it shall henceforth be observed in the examination and judgment of books: commanding all and each who hold a position in the aforementioned Congregations, or who render their services to them in any way, that they presume not to publish, innovate, decree, or attempt anything contrary to what has been established by us, without our express permission, or that of our successors, the Roman Pontiffs who are present at the time.

§ 26. Notwithstanding any contrary things, even Apostolic Constitutions, and ordinances, as well as the decrees, customs, styles, and usages of the same Congregations, even those established with Apostolic authority, or with any other firm foundation, and all other things that may be contrary.

§ 27. Therefore, it is not permitted to any human being whatsoever to infringe this page of our decrees, mandates, statutes, wills, and derogations, or to dare to contradict it with reckless audacity. If anyone should presume to attempt this, let him know that he will incur the wrath of the Almighty God, and of the blessed Apostles Peter and Paul.

Given at Rome, at the Basilica of Saint Mary Major, in the year of the Incarnation of the Lord one thousand seven hundred and fifty-three, on the seventh day before the Kalends of July, in the thirteenth year of Our Pontificate.

D. CARD. PASSIONEUS I. DATARIUS.

Visa De Curia, I. C. BOSCHI.

L. EUGENIUS.

Loco £8 Plumbi.

Registered in the Secretariat, Brevium.

[*Latin ed. p. 95*]

COMMENTARY 95

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35. Cf. note 21.

36. Although Spondanus, Cardinal of Lucca, Vanespen, and others have affirmed that the Sacred Congregation of the Index was established by Sixtus V, it has been determined that it is due to St. Pius V, since he erected the Congregation of the Index from the Commission appointed by the Fathers of Trent for the purpose of compiling the Index of books prohibited for reading. We owe this information to Father Libelli of the Order of Preachers, who was a secretary to that same Congregation under Alexander VII. "This subsequent deputation," he says, "Pius V erected into the Congregation of the Index, assigning Anthony Possio as secretary to it; and subsequently, the Supreme Pontiffs have appointed men from the Order of Preachers to that office." Furthermore, Father Libelli lists the secretaries who preceded Sixtus V; see Zaccaria, *Storia Polemica della proibizione dei libri*, page 153, Vol. IV.

37. What is implied by the term "formula dimissoria" within the Sacred Congregation of the Index is evident from the following Decrees.

On Tuesday, June 21, 1880.

"The Sacred Congregation of the Index, having convened in the Vatican Apostolic Palace on June 21, 1880, declares that the term 'formula dimissoria' signifies only this: that the work which is 'dimitted' is not prohibited."

"Which to the Most Holy Lord Pope Leo XIII, through me, the undersigned, Secret of the S.I.C., His Holiness has approved. In witness whereof, etc.

Given in Rome on June 28, 1880.

"Fr. Hieronymus Pius Saccheri, Order of Preachers, Secret of the S.I.C."

Acta S. Sedis, Vol. XIII, page 92.

Moreover, on December 5, 1881, the following doubts were presented to the same Sacred Congregation for clarification:

"I. Whether books brought before the Sacred Congregation of the Index, and by it 'dimitted,' or not prohibited, should be considered free from all error against the faith and morals.

"II. And, to the extent that the answer to the first question is negative, whether books which have been 'dimitted,' or not prohibited by the Sacred Congregation of the Index, can, either philosophically or theologically, be impugned without incurring the charge of temerity."

The same Sacred Congregation responded:

"To I. Negatively.

"To II. Affirmatively."

Acta S. Sedis, Vol. XIV, page 288.

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And in conformity with such decrees, the Supreme Inquisition...

[*Latin ed. p. 96*]

96 COMMENTARY. Thursday, December 14, 1887. After having excerpted and condemned forty propositions from the posthumous works of Anthony Rosmini, and after having decreed concerning other works which had been rejected by the Holy Congregation of the Index in the year 1854, he decreed: that, consequently, it may be permitted to each [person] to deduce, concerning the other doctrines of the same author, which are not condemned by this decree, that they are in no way approved. *Acta S. Sedis*, Volume X, page 398. 38. Censorship is one thing, the prohibition of books is another. Censorship is the judgment by which it is determined what is good or what is harmful in a certain book; or, the judgment of conformity or non-conformity of a certain book to the truths of any order; more precisely, in our case: the judgment of orthodoxy or heterodoxy of a certain book. Prohibition, however, is the act of ecclesiastical power (for we are speaking of ecclesiastical prohibition), by which a certain book, harmful to the reading and use of the faithful, is forbidden. Censorship is the cause, prohibition is the effect, because any book is prohibited because it is worthy of censorship, or at least it appears to be; hence, censorship precedes prohibition, both logically and ontologically, just as the cause precedes the effect. But if we speak of the censorship of books, which is now used in the Congregations of the Holy Office and the Index, it is due to Paul IV, as can be seen from the cited Constitution *Sollicita*, in which we read: "To these [Congregations] is entrusted the task of inquiring into wicked and harmful books, and of determining which require amendment, and which require suppression. This duty was assigned to the Roman Universal Inquisition by Paul IV." In the prologue. No one can determine which books require amendment or suppression, unless they first institute an examination and censorship. The question to be asked here is: does the prohibition in Leo XIII's Constitution extend to the same degree as in the old law? It appears that it did, because it is evident from the *Index Librorum Prohibitorum* and other sources that it included reading, printing, publishing, retaining, giving prohibited books to others, and defending them. And there are more reasons to doubt this: first, because the Roman Pontiff has made the rules somewhat milder, so that no one, except for a greater reason, should exempt themselves from their observance; and secondly, because, as in the Piana Constitution of the Apostolic See, the moderation, from which the second paragraph of Chapter I, title I, is taken, is enforced by excommunication, namely... (the text continues).

[*Latin ed. p. 97*]

97 FROM THE HOLY CONGREGATION OF THE COUNCIL OF

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BEL LÜNEN, AND FELTREN. REGARDING THE CELEBRATION OF MASSES, dated April 3, 1897. Summary of prayers. COMPENDIUM OF FACTS. Since the provinces of Lombardy and Venice were subject to the Austro-Hungarian Empire, the government provided a proportional subsidy, or as it is now called, an appropriate increase, to the parish priests of those regions, whose income did not reach a certain sum established by law; but on the other hand, on May 13, 1816, and December 23, 1861, the same government imposed upon these same parish priests the obligation of celebrating one Mass for each ten units of the subsidy. Regarding the origin of this subsidy, it is fitting to mention what Father Francis Nardi recounts in his *Lezioni di Diritto Canonico* (Vol. II, § 264, in a note): The Cisalpine Republic secularized many properties, which the Apostolic See had permitted to remain with their owners, and their successors, through the concordat of 1803. Through other secularizations in the years 1805, 1808, and 1810, it granted numerous properties to the Mont Napoleone, with the obligation of providing what was lacking to deserving parish churches, to the chapters of cathedrals, and to seminaries; and also to pensions owed to members of suppressed colleges and monasteries, an obligation which passed to the Mont of the Kingdom of Lombardy-Venice, and therefore to the royal treasury, from which it depends. Although these secularizations were not legitimized by a public pontifical decree, there exists a private decree from which it is gathered that the intention of the Apostolic See was not to disturb the present private owners. However, by what right the Austrian government imposed the aforementioned obligation of celebrating Masses, and whether the authority of the Holy See intervened, although diligent investigations have been conducted, it could not be determined. Acts, Vol. XXX, page CCCXLIX. 7.

[*Latin ed. p. 98*]

98. BELLUNO and FELTRE. Following the transfer of the Lombard-Venetian region to Italian governance in 1866, it is certain that the lands of the aforementioned Longobard-Venetian Mountain also passed to that same governance. It also appears that the Austrian government imposed a burden on the parishes to provide assistance, as the Italian government did. However, there is a lack of evidence to prove whether the parishes were obligated to offer one Mass for every ten units of assistance received. As a result of this, almost all of the pastors who were receiving assistance at that time ceased celebrating these Masses. Furthermore, the pastors who were appointed later may not have been aware of this obligation, because the government usually did not mention any specific obligation when allocating the appropriate funds. Nevertheless, some pastors did not omit the celebration of these Masses, and others were not entirely free from the prompting of their conscience. Therefore, in 1882, the Bishop petitioned the Supreme Pontiff to grant: I. a remission to all pastors of

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the Dioceses of Belluno and Feltre who received assistance from the government, for the omission of the aforementioned Masses from the year 1868. II. a dispensation from this burden, both due to the poverty of the benefices and because for many, this burden would be new, since they did not know about it when they received the benefice. In response to these requests, the Holy Congregation, on January 13, 1882, after deliberation, issued the following decree: "Considering the particular circumstances, to those who are individually in need of absolution, a certain number of Masses may be assigned, according to the degree of guilt and the number of Masses omitted, for the purpose of absolution and remission regarding past omissions, and also a reduction of the aforementioned Masses to one Mass for every twenty or thirty units of assistance, as the Bishop, in his judgment, deems necessary for the relief of the individual parochial benefices, for a period of five years, at the discretion and conscience of the Bishop." This grace was extended for another five years on January 17, 1888. During this five-year period, the government...

[*Latin ed. p. 99*]

BELLUNEN and PELTREN. Ninety-nine parishes were granted assistance, some of which had previously received no such support; and the assistance was increased for some that already had it. With these matters settled, the Bishop made a third appeal to this Sacred Congregation, requesting the following: I. That, where appropriate, permission be granted for the celebration of Masses that certain pastors should have been able to celebrate, namely those who have received an increase in assistance from the government, and also those who, as mentioned above, had long possessed it; II. That in the future, the obligation to offer one Mass for every hundred *libelli* be limited to parishes receiving assistance; III. That a dispensation be granted from all application of Masses for new assessments established by the present government. In response to this request, on January 30, 1892, the following was stated: Regarding point 3, no need. Regarding point 2, with effect from the date of this decree, for a period of five years, according to the grace requested. The Bishop interpreted this decree in such a way that the concession regarding point II should be understood to apply to those parishes that had received assistance from the Austrian government, as mentioned above, up to the year 1882, and that all other parishes should be exempt from any obligation, even if they had received the parish before that year. However, since some considered this interpretation to be incorrect, the Bishop chose the safer course and imposed the obligation of one Mass for every hundred *libelli*, calculated according to the measure of the year 1882, for those parishes that benefited from this assistance before the year 1887. Now, as the time approaches when the aforementioned decree will expire, the Bishop again requests: that the obligation of one Mass for every hundred *libelli*, calculated according to the measure of the

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year 1882, be extended for the benefit of those parishes that have received assistance from the Austrian government, while all other parishes are entirely dispensed from this obligation. With these new requests received, the Bishop's petition is examined by the summary process.

Disputatio Synoptica. Furthermore, if the proposed requests are granted with a positive response, regarding the celebration of Masses, about which we are speaking, then...

[*Latin ed. p. 100*]

100 BELLUNEN. AND FELTRE. It has come to pass that new parish priests are declared free from all obligations; the old ones, who are few and already of advanced age, will, within a short time, inevitably pass away according to the laws of nature. Nevertheless, it seems that some obligation regarding these masses still rests upon the parish priests. For the assets, the revenue of which from the Austrian government was intended for the support of the parish priests, were certainly burdened by the obligation of masses; and this, undoubtedly, was the reason why the celebration of these masses was so frequently imposed. These assets were subsequently transferred to the Italian government, and it appears that they brought with them the obligation of masses, which in this case is something real and follows the property. I do not believe that the Austrian government, in ceding these assets, added the condition of imposing the obligation of masses upon the parish priests. Firstly, it is scarcely credible that the Austrian government did not mention this obligation in the transfer of the assets. When it informed the Italian Treasury of the obligation to pay these subsidies, it undoubtedly also made known the attached obligations. Furthermore, the exemption granted by the lay administrator seems rather to indicate that the Italian government, at least, was aware of this obligation. Moreover, if the assets of Monte di Venetia no longer exist today, and the government pays the subsidies from the Cult Fund, this seems to be of no benefit, because things that are transferred to others should be considered to be affected by the same privileges and obligations. I do not believe that the lack of intervention by the Holy See in this matter can be adduced as evidence that the actions taken by the government are justified in absolving this obligation, for it cannot be supposed that the Holy See was completely unaware of this; and if there are private rescripts, as Nardius reports, from which it appears that the intention of the Apostolic See was not to trouble the present private owners, it could reasonably be inferred that it knew that those who received the revenues of Monte di Venetia were also burdened by obligations, since those revenues had been derived from the price of assets that were purchased from private individuals at the time of the sup-

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pression. Therefore, either directly, or at least tacitly, and...

[*Latin ed. p. 101*]

BELLUNEN. AND FELTREN. 101. It could be argued that the indirect burden imposed upon the parish priests, with the increase in subsidies, was deemed acceptable. However, a decree of the year 1882 demonstrates that the Holy See at least considered it doubtful whether the parish priests were obligated to celebrate the imposed Masses, and therefore it deemed it opportune to grant an exemption and reduction. On the other hand, it must be observed that the Austrian government perhaps had no legal right to impose these burdens on the Masses, both because it possessed no authority in this matter, and because the subsidy, whatever its origin may be regarding the assets from which the revenue derived, was determined by law, and the law imposed no burden whatsoever. Furthermore, with the imposition of these burdens, the purpose of the law is not achieved, namely, to assist poor parish priests. The presumption that the Holy See tacitly and indirectly approved of the burden appears to be ineffective, for the matter concerns the creation of an obligation, for which purpose silence and presumption are not sufficient. Moreover, if it is deduced from private decrees that the Holy See did not wish to disturb those who possessed the unjustly seized goods, it does not follow that it wished to burden the parish priests with the aforementioned obligation. Nor does the reasoning derived from the nature of the assets from which the funds were perhaps obtained, seem sufficient. Indeed, a burden, as a real obligation, follows the thing and affects all possessors of that kind. The Pontifical decrees appear to refer to this, in which it was stated that the Holy See did not wish to disturb the present possessors. In truth, the government did not possess ecclesiastical goods, but sold them, received a price, established the "Mont Napoleonic," and ordered that it should be used to pay the endowments of the Churches, to supplement the deficient parish funds, and to support other needs. These assets of the "Mont Napoleonic" were subject to the laws agreed upon between Napoleon and Pius VII, and since no provision was made for these burdens, it must be said that these were absolved from the ancient and pious obligations. Nor is anything lacking to the faithful who made these offerings.

[*Latin ed. p. 102*]

102 BELLUNO and FELTRE: A suffragan vicariate; provided that the parish priests request Mass for the people, and for the deceased, from the parochial revenues, in one way or another, and that they do so with the best of intentions. However, the situation has reached the point today that, while maintaining fairness, it often appears that the aforementioned parish priests cannot be obliged to celebrate these Masses. Furthermore, the new government has mixed everything up, so that, without any distinction, it

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has decreed that a suitable supplement should be provided to those parish priests whose revenues barely reach eight hundred livres. Therefore, everything has been changed. And if parish priests who, for example, in Lazio, have received this suitable supplement, are exempt from the obligation of celebrating Masses, there is no reason why parish priests in the Venetian region should be burdened. Nor can such an obligation be deduced in any way from the quality of the property, since those who receive funds from the cult, or stipends, or subsidies, would be said to be burdened by the obligation of celebrating Masses. With these considerations, the question was raised as to what answer should be given in prayer. RESOLUTION. The Sacred Congregation, after consideration, on April 3, 1897, decided to respond: To I and II, for the requested grace, the following was said with SSmo. MELEVITANA: DISPENSATION OF MARRIAGE. On April 9, 1897, Session 24, Chapter 1, concerning the dispensation of marriage. SUMMARY OF THE CASE. Joseph, being thirty-four years of age, and Anne, almost forty years old, entered into a legitimate marriage on October 22, 1883, before the parish priest of the Church of St. Publius, in the suburb of Vilhena, in the Diocese of Melevitana, out of mutual and forced love. The spouses lived together for several months in Joseph's paternal home, but due to disagreements that arose between Anne and the husband's family, they moved to another house rented by Anne herself. However, after a short time, after nine...

[*Latin ed. p. 103*]

After approximately 103 months from the marriage, Joseph abandoned his wife, never intending to return to her. When Anne repeatedly pleaded with her husband, even with the persuasion of friends, to restore their conjugal life, on February 27, 1885, she appeared before the civil court in Potenza, requesting support from her husband, which she obtained. However, Joseph still refused to return to her, so she initiated proceedings at the same civil court for separation regarding property and cohabitation, which she obtained in December 1887. Subsequently, Anne waited until May of the year 1890, and then sent a petition to the Ordinary of Melevitani, asking him to initiate a canonical process to declare her marriage null. This was due to her husband's prior and perpetual impotence. The Melevitani court responded to the petitioner's prayers, but shortly after the process began, it remained interrupted, until in the year 1892, Anne petitioned the Most Holy [Father], asking that her marriage with Joseph be benignly dispensed, because it had never been consummated due to the husband's impotence. The Sacred Congregation, having received the petitioner's arguments, recommended by the court, responded to the Bishop, granting him the authority to initiate the process, adding: "Furthermore, if she has a well-founded hope, even without examining the woman, she should proceed according to the law to prove the lack of consummation with other arguments." After

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the process was completed, the Reverend Ordinary issued the following judgment, which was not, in fact, requested: "We declare and decree that, whatever may be the case regarding marital potency or impotence, the marriage between the parties... remained unconsummated, and therefore, we grant the petitioner, according to her prayers, a dispensation regarding a valid but unconsummated marriage..." (1). (1) Recole Vol. XXVII, 141. Varsavien. Doubts regarding matrimonial causes; doubt II. Is it permissible, without special permission for each case from the Sacred Congregation, to receive a petition and initiate a process in order to obtain a dispensation from the Most Holy? The response to doubt II, dated June 16, 1894, was: "No."

[*Latin ed. p. 104*]

104. MIRANDE. A Synopsis of the Disputation Concerning the Nullity of Marriage. The matter at hand concerns the dissolution of a marriage, validly and legitimately contracted. It concerns a dispensation, which, although it is a grace, has its place only when there is certainty regarding the marriage's lack of consummation. Is this not the case with the marriage between Joseph and Anne? First of all, the testimony of the spouses must be heard; and indeed, they affirm, and this is confirmed by other witnesses, that they cohabited and slept together for a period of eight or nine months. This clearly establishes a very strong presumption, legally and by right, of the consummation of the marriage; against which presumption, no evidence is admitted unless it is complete and conclusive, and removes all suspicion. But what evidence does the plaintiff, Anne, offer against such a presumption? I say, none, or almost none, except for her bare assertion. There are no depositions, for example, nor an examination of her person. First of all, I ask: Why did the plaintiff delay so long in revealing the lack of consummation of her marriage? The reason given by her is: "For a long time, I did not know how marriage was consummated; so that I believed that children were conceived from the kisses given and received between a man and a woman." But the counselor adds, a truly remarkable thing, that a woman who had already exceeded the age of forty did not know what was required for the consummation of marriage! Is it to be believed that a woman could be so naive and sincere? Such simplicity must be considered false and feigned, if we follow the testimony of the mother of Joseph. However, let us suppose that, when she entered into marriage with Joseph, she truly did not know what was required for the consummation of marriage; we can never admit that she persisted in such ignorance even two years after the separation; and various reasons suggest this to us. First, her mother-in-law testified: that at the beginning of the marriage, she made

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the bride more aware of how she should...

[*Latin ed. p. 105*]

MELITANA 105 ought to have known that she should have marital relations with her husband, lest she waste her seed. Therefore, it must be said that, from the very beginning of her marriage, her mother-in-law taught her how to behave during the consummation of the marriage, and from that moment, her ignorance ceased. Did she not, therefore, while living with her husband, know what adultery was, how this crime was committed, and did she not know what the consummation of marriage entailed, or how it was accomplished? Away with such absurdities! Finally, lest I be too harsh, what witnesses does she present to attest to such profound ignorance? Three: Paul, namely Xueret, who, according to the testimony of the advocate in the Melitensi court, suffers from mental deficiency; and two Capuchin Fathers, whom she claims were her confessors, and who are both deceased. Truly, this is a place for exclaiming: Oh, wretched cunning, which brings forth mad and dead witnesses! But let us see whether the marriage was truly consummated or not, based on three categories of evidence: 1. the sworn testimony of the spouses; 2. the testimony of the seventh month; 3. the examination of the bodies. Anne denies that her marriage was consummated; yet, what the woman denies, the man affirms; and therefore, we have here a clear case, as in c. Accepisti de frigid, and male f. contemplatimi, where it is concluded that, when the man affirms the consummation of the marriage against the woman's denial, it should be believed that the marriage was consummated; but in the present case, it is even more evident if one considers that the man is speaking of a matter that, when it occurred, was known to him, while, on the contrary, Anne recounts things that she did not know at that time, as she herself testifies. Furthermore, when Anne says: "I could not have conceived because I never saw the seed," what does this mean? Does it mean that the man could not pour the seed into the vase? But if the seed was not poured into the vase, he could have spilled it outside the vase, and Anne would have seen and felt it. Or does it mean that he could not eject the seed from his penis? But this is absolutely denied by the mother of Joseph. Moreover, the falsehood of Anne's testimony regarding Joseph's impotence is further proven by the fact that, on May 23, 1885, before the civil court, I accused my husband, Joseph, of living with prostitutes. And in this way, she herself...

[*Latin ed. p. 106*]

106. Could a man be accused of failing to fulfill his marital duty? Thus, the man was admitting to a lack of power for coition. Therefore, if we hear the testimony of the witnesses, the truth appears even more clearly in favor of Joseph. Almost all the witnesses, except for one, Vincentia Grech, speak highly of Joseph's integrity and truthfulness. All the witnesses, ex-

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cept for the aforementioned Vincentia Grech and Philomena Gordmaina, assert that the union between the aforementioned spouses had been fully consummated, and they deduce this especially from the words of Anne herself and from her behavior when the man abandoned her. Therefore, from these witnesses, it is clear that Anne was never concerned about the man's impotence during the entire time she lived with him; indeed, she clearly demonstrated his power through repeated declarations that she was pregnant, through the shedding of the blood of coition, and through the great desire she always had to live with her husband; in short, she always acted and spoke in such a way as to clearly show that her husband not only possessed the power for coition, but that he had also consummated the marriage with her. Therefore, from what has been discussed so far, it is clear that Joseph and Anne freely entered into marriage with each other, lived together and slept together for nine months; after more than two years from the separation, Anne requested from the judge that her husband be declared impotent and that the marriage be declared unconsummated, and his ignorance regarding the consummation of the marriage, which she presented, cannot in any way be admitted to excuse her from such a long silence. It is also clear that, both before and after the separation, she repeatedly told many witnesses that she was pregnant and that she shed blood during intercourse with her husband; for a long time and with repeated prayers, she asked the man himself to return to her, and she used the advice and persuasions of parents and friends to this end, which she certainly would not have done if she had experienced that the man was suffering from impotence. Finally, from the opinion of almost all the witnesses, it is clear that the marriage between Joseph and Anne was truly consummated. But what about the opinion of the experts? From their testimonies...

[*Latin ed. p. 107*]

Our opinion is confirmed by Melevitana 107. Doctor Francis De Bono speaks of the possibility of impotence, not of actual or past impotence, which certainly affected Joseph, not only when he was living with Anne, but even before he entered into marriage with her. He does not speak, in other words, of impotence preceding the marriage, but of impotence following it, which, although it certainly and evidently could affect the validity of the marriage, could not declare its nullity, since it could have occurred after the consummation. Therefore, all experts who examined Joseph's body agree that no sign of impotence was found in his body; therefore, the argument of the lack of consummation of the marriage presented by the actress Anne is refuted. However, we have the testimony of Doctor Theodore Bennici, who seems to favor Anne. First of all, it must be noted that this doctor conducted an examination of Anne's body extrajudicially; then, he carried out such an examination "by means of visual inspection and 'digital' examination," omitting what is prescribed by the

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Sacred Congregation of the Council in the instruction published on August 22, 1840, namely that "the woman must be immersed in a bath of warm water in which she must remain for at least three-quarters of an hour." With these observations in mind, let us hear the witness. Let us suppose, for the moment, that the witness is telling the truth and that the signs observed in Anne are certain of the lack of consummation of the marriage. But could not the cause of this lack of consummation be the tightness of the woman's hymen? "She had a very narrow annular hymen." If so; it would be an impediment on the part of the woman herself; if so; does such a tight hymen constitute absolute and perpetual impotence, or not? This question must be resolved before, having established the lack of consummation of the marriage, it is permissible for Anne to enter into another marriage. With these things noted, I ask whether the integrity of the hymen and the absence of myrtiform caruncles are a certain and evident indication of virginity in a woman and of the lack of consummation of marriage. If we consult the ancient doctors, those who argue in favor of this position should be listened to, but there is a different opinion among the more recent ones. "Virgin-

[*Latin ed. p. 108*]

108. "The virginity," says Zaccaius in *Quaestiones Mediae, Legales*, Book 4, title 2, question 1, number 14, "is not given with certain and inseparable signs, since virginity, as it is, is the integrity of a woman's vessel, untainted by the union of a man. This conclusion is most accepted." The reason for this conclusion is that "the signs by which one most trusts in attesting to this matter are either deceptive and promise nothing certain, or they are truly nonexistent; for, as almost all recent and most astute anatomists unanimously agree and concur, that membrane [the hymen] is not found in all [women]." Thus also Scuring in his *Spermatologia*; Vannet in his work, entitled *De la génération*, page 2, section 2; Filippi, *Manuale di medicina legale*, part 3, page 665; Gardier, *Trattato completo dei parti*, volume 1 and 2, article 1, section 1. In those women in whom the hymen is found, according to their opinion, it may be intact, even if intercourse has been repeated. Garnier, *loc. cit.* They adduce various reasons for the integrity of the hymen after the consummation of marriage, among which are: 1. "If the man has a very short member, and if that membrane [the hymen] is located higher and further inside, or if the woman herself has a prolonged uterine cervix." Zaccaius, *loc. cit.*, number 29. 2. "If a woman abstains from intercourse for a long period after the consummation of marriage, and even after the hymen has been torn, 'a very long interruption of intercourse allows the parts to contract and return to their original state.'" Garnier, *loc. cit.* 3. "The agreement and coherence of the parts of the uterine cervix can also be procured by means, even by medicines, which can not only restore, but even surpass the natural [state]." Zaccaius, *loc. cit.*, number

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24. Hence, Sánchez says: "Often, the eyes and hands of those who examine are deceived, especially because women use many deceptions by which they appear to be virgins." *De Matrimonio*, title 7, dispute 108, number 8. Let us not speak of this last cause, for certainly the two former are present in our case, namely, the smallness of Joseph's member, which we have from the testimony of experts.

OPINION OF A CANONIST. This consultant, having related what pertains to the hope...

[*Latin ed. p. 109*]

In order to determine whether the case merits a dispensation, and to inquire whether the Most Reverend [ecclesiastical superior] can grant this dispensation, the following must be considered. It must be established as an unquestionable principle that a dispensation from marriage is not to be granted unless it is morally certain that the marriage has remained truly valid and has never been consummated; nor is it sufficient that it cannot be clearly proven that the marriage has been consummated. Therefore, we must inquire whether the evidence presented to support the claim of non-consummation is sufficient to persuade a prudent person to this certain conviction. Concerning the non-consummation, it can be established: a) by the testimony of the spouses, b) by the confirmation of a seventh witness, c) by an examination of the bodies, d) by various indications, which, when taken together, provide a certain moral certainty. a) Regarding the testimony of the spouses, we have Anne testifying under oath that she has, for several months, cohabited with her husband and slept with him; indeed, she states that she has almost daily performed conjugal duties, but that the marriage has not been consummated due to the husband's impotence, who has not emitted a single seed, and has not even been able to insert his virile member into the woman's vagina, and that she has suffered pains on several of these occasions. — But the husband's testimony is entirely the opposite. He testifies under oath that he has consummated the marriage, having inserted his member into the vagina and having emitted semen; and he asserts that he informed his father of this, as the father himself testifies in his deposition. Therefore, from the husband's sworn testimony, it is clear that the wife's testimony is contradicted, and even though these testimonies should be considered equally, much more so when, as we will see later, the husband deserves greater credibility and his testimony carries more weight. In chapter 1, concerning frigidity and malice, we expressly find: "You have taken a wife... But if she, after a year or six months, proclaims to the Bishop or his representative that she did not know you, you (the husband)..."

[*Latin ed. p. 110*]

110 "MELEVITAN," you assert the contrary, and you must be believed

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because you are the head of the woman." Therefore, whatever direction we take from the sworn testimony of the spouses, we cannot morally be certain of the absence of consummation in this case. b) Now, it must be considered secondly whether this confirmation by seven witnesses proves anything. Regarding this, it must first be noted that the witnesses questioned were not asked whether they had knowledge of the religion and honesty of that spouse from whom they were induced, so that it would be likely to them, and they would believe that he had spoken the truth, as is required by the Instruction of this Holy Congregation of August 22, 1840. Indeed, this question would have had its value, and it is essential in the testimony of seven witnesses that it is a testimony not of knowledge, but of truth, and it does not seem to be entirely supplied by another interrogation made to the witnesses, namely, whether they thought the marriage had been consummated or not. Furthermore, Anne brought only two witnesses to court, besides Theodorus Bonnici, the physician-surgeon who had visited her after her separation from her husband, namely, Vincentia Grech and Iulia de Comitibus Preziosi. Of these, Iulia Preziosi openly confesses that she is of the opinion that the marriage had been consummated; Vincentia Grech believes that the marriage remained valid, for this reason, that Anne spoke entirely differently about the consummation of the marriage before she had a conversation with a certain Paulus Xuereb about the conjugal act, and after she had had that conversation (when, indeed, it seems she had already hoped to marry Carmelo Briffa, her nephew). On the other hand, of the nine witnesses of seven witnesses whom Iosephus presented, all testified that they believed that the consummation of the marriage had taken place, except for Philomena Giordmaina. It must also be noted that almost all the witnesses believe that the marriage was consummated, both because Anne, while still living with her husband, had often told them that she had become pregnant by her husband, which, although not true, is not surprising in a woman of more advanced age; and also because, if the matter were of impotence, Anne would have confessed this much earlier.

[*Latin ed. p. 111*]

It is considered by many to be a very clever argument. Therefore, even from this point, it must be concluded once again that no certain argument can be found in favor of the lack of consummation, but rather more indications that entirely confirm the presumption of law, and indeed the already existing right, for the consummation of the marriage. c) We must now proceed to the third point of evidence, namely, the examination of the bodies. Furthermore, in this matter, we have the testimony of one of the physicians regarding the woman's virginity, while five others hold the opposite opinion, having found in the person of Joseph a perfect constitution of the genitals, which does not lead anyone to suspect his impotence. To all of this, we can add the observation that the depth of Anne's vagina could also have

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originated from this, even after intercourse, because the male member of Joseph has small dimensions, according to the testimony of experts. From these things, it is clear that even someone who most wished to favor Anne could indeed find some probable argument against the consummation of the marriage from this, but never a morally certain argument; indeed, even the probable arguments in favor of the consummation seem to be greater. d) It remains to see whether such indications and circumstances concur in this case, so that, taken together, they would provide a prudent judge with moral certainty that the marriage was not consummated. But from the very things that we have said so far, it is clear that there are more indications to the contrary, more circumstances that suggest consummation. For, above all, Anne does not present in her depositions any mark of truthfulness. Indeed, it is difficult to admit that a woman who has passed her fortieth year, who is said by the witnesses to be clever, and who has slept with her husband for nine months, would be ignorant of what the consummation of marriage consists of, and would have learned this only from a shameful conversation with a certain Paul Xuereb, who is hinted at in the records. Furthermore, Anne herself testifies that, in the first months after the beginning of the marriage, while she was living with her husband in her parents' home, she...

[*Latin ed. p. 112*]

112. Melitana, having been incited to adultery, and this being the reason why she abandoned that home; but who would think of speaking of adultery without even acknowledging that the consummation of marriage had taken place? Furthermore, just one month after the separation, Anna, speaking with Carmela Stivala, seems to have already understood what conjugal relations were, since she engaged in a conversation about conjugal acts and said that she was pregnant. Moreover, what removes all ambiguity in this matter is the deposition of Joseph, the mother, which was mentioned above. Add to this the very motive that led Anna to bring this action: namely, the hope of entering into marriage with her nephew, Carmelo Briffa. Did not the desire for a new marriage perhaps prompt Anna to lie? This appears to be more likely from the confession of the husband. For the husband gains no advantage from the fact that his marriage with Anna is considered to be consummated, nor could he fear anything else, not even the disgrace of impotence; for five expert physicians, who examined him, clearly refuted this injurious accusation. Indeed, Joseph testifies against himself, for he remains forbidden from a new marriage. Furthermore, Joseph is a pious man who frequently receives the Sacraments, while Anna leads an immoral life.

OBSERVATIONS OF THE DEFENDER OF MARRIAGE, BY OFFICE. The marital bond, which Anna, already 39 years old, contracted on October 22, 1883, with Joseph, who was 34 years of age, is declared imperfect. While

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the most learned consultants, theologians, and canonists fully support the opposing action, I believe, Most Reverend Fathers, that you will deliberate for a long time. I will only point out one thing: that the Melitana Bishop was rightly moved by the authority of the doctor, Bonnici, who, after examining Anna, swore to her virginity; for Doctor Bonnici examined Anna's body, without a bath beforehand, and without employing any precautions to detect any deception by which virginity could be feigned.

[*Latin ed. p. 113*]

Experience teaches that women, even the most corrupt, can, through this method, demonstrate their virginity, as a most excellent theologian demonstrates, not only by one, but even by a phalanx of physicians. Having these things in mind, the purpose was to resolve the doubt concerning whether to consult in the case of a dispensation from a marriage that is valid but not consummated. RESOLUTION. The Sacred Congregation, after deliberation on April 3, 1897, decided to respond: Negatively. FROM THE HOLY CONGREGATION FOR RITES, CONSTANTIEN and ABRINCEN. Concerning the beatification and canonization of the venerable Servant of God, Sister Mary Magdalene, in the world Julia, Francisca, Catherine Postel, foundress and first General Superior of the Institute of the Sisters of Christian Schools of Mercy. That help which God, the author of nature, has granted to man, is also perfected in the supernatural order. This singular disposition of divine providence, persevering from the beginning of the world through the course of the ages, shines more brightly in these our times in the true Church of Christ, for the good of Christian society, through a wonderful series of men and women who have distinguished themselves by the sanctity of their lives. A most illustrious woman, together with the Blessed John Baptist de la Salle, founder of the Brothers of Christian Schools, shines forth, given to girls from heaven, Sister Mary Magdalene, in the world Julia Postel, who founded and governed the Institute of the Sisters of Christian Schools of Mercy. On November 28, in the year 1756, in Barflorei, in France, from the diocese of Constance, in the province of Rouen, she was born, the first of seven children of John and Therese Le Vallois, and was immediately baptized, being regenerated. Even as a child and a young girl, she seemed to have understood the great value of time, and she lived a pious and austere life.

[*Latin ed. p. 114*]

114 It is reported that she was diligent in matters of ritual and active in her works. Having received a refined education from the Benedictine nuns in Wallonia, she opened a school in her native town, where she, a young woman of eighteen years, established a religious institution for poor boys and girls. In those turbulent times, when France and all of Europe were in turmoil, Julia Postel, inflamed by the love of Christ, frequently

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visited pastors and the faithful, offering help and comfort to all; and she carefully guarded the sacred vessels entrusted to her, as well as the Most Holy Eucharist contained within a pyx. In the year 1802, she established a school in Caesaroburgo, which flourished with three hundred girls, and in the following year, she was joined by Catherine Bellot, and later by Aloisia Viel de Quettehou. This threefold bond of the new Institute was established there by the ordinary authority, delegated by the Reverend Cabart, and then confirmed by the Bishop of Constance, Rousseau, in the church of the Most Holy Trinity, and was praised through the parable of the mustard seed, adapted to those three virgins. It is worth remembering the day of the octave of September, in the year 1807, when Julia Postel, in the Congregation of sisters of Christian schools which she had founded, dedicated herself entirely to God, taking the name of Mary Magdalene. Leaving Caesaroburgo in the year 1811, she came to the village of Oetemlle-la-Venelle, and after six months, entered the town of Tamerville, where she chose the site for the first house of her Congregation. In order to teach freely, this humble virgin, already sixty-two years of age, offered herself to the authorities responsible for public instruction, and, having been examined and awarded a diploma, she was authorized to practice teaching publicly. However, in the year 1832, having purchased the Abbey of Saint Salvator le Viconte, Mary Magdalene moved there, while maintaining the presence of the sisters in the town of Tamerville, and she determined to restore the abbey's church in every respect. Together with the principal house of her Congregation, which included schools, she worked in counsel and collaboration with the Reverend Delamare, the superior of her Congregation, to establish an Institute called the Brothers of Mercy, for the education of boys and adolescents, especially the poor. As the number of sisters and postulants grew, the best of mothers, having already written and observed the rules, which she had long ago drafted, and having received, in the year 1838, from ecclesiastical authority, with humility and willingness, other rules which Saint John Baptist de la Salle had given to his companions, she received them, with new vows, and with the unchanging habit. Meanwhile, in that very year, the Congregation of sisters, with its principal house at the Abbey of Saints Salvator, received royal letters.

[*Latin ed. p. 115*]

From the Sacred Congregation of Rites, number 115, it was legally recognized; and subsequently, in the year 1842, by Pope Gregory XVI, of blessed memory, it was enriched with the same indulgences and privileges that had been granted to the Congregation of Brothers of Christian Schools. Truly, the Handmaid of God, desiring to rest from her labors due to advanced age and bodily weakness, and also to be dissolved and united with Christ, foretold her approaching death on several occasions, which occurred peacefully on July 16th, on the feast of the Blessed Virgin Mary of

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Mount Carmel, in the year 1846, after having been strengthened with the holy Viaticum and anointed with sacred oil, and having given her maternal blessing to the sisters of her Institute. The fame of her sanctity, which she had acquired during her life, after her death was confirmed by the crowds of citizens and foreigners who flocked to her funeral and tomb, and continues to grow more and more clear and widespread. Consequently, after due investigation based on this fame, a proper Ordinary Process was completed in the ecclesiastical courts of Constance and Avranches, and this was presented and opened in the Acts of the Congregation of Saints. With a prior Apostolic Indult, a question regarding the introduction of the cause was proposed in the Ordinary Congregation before the expiration of ten years, and without the intervention or vote of Consultors, at the request of the illustrious Lord Aloysius Rossi de Gasperis, Knight, Postulator of this Cause, together with the Institute of the Sisters of Christian Schools of Mercy, and with particular attention given to the petitions of certain Eminences and Reverend Cardinals of the Holy Roman Church, and of other men, whether of ecclesiastical or civil distinction, the Eminence and Reverend Cardinal Caietan Aloisi-Mosella, Relator of the same Cause, in the Ordinary meetings of the Sacred Congregation of Rites, on the date indicated, held at the Vatican, proposed the following question to be discussed: "Should a Commission for the Introduction of the Cause be appointed in this case and for the purpose in question?" And the Sacred Congregation itself, after the report of the Eminent Proponent, having carefully considered all matters, and after hearing the Reverend Father John Baptist Lugari, Promoter of the Holy Faith, decided to respond: "Affirmatively, or that a Commission should be appointed, if it pleases the Most Holy [Pope]." On July 27, 1897. Subsequently, a report on these matters was made to Our Most Holy Lord Pope Leo XIII by the Cardinal Prefect of the Sacred Congregation of Rites, and His Holiness approved the decision of the Sacred Congregation and deigned to sign the Commission for the Introduction of the aforementioned Cause with his own hand.

[*Latin ed. p. 116*]

116 FROM THE SACRED RITUAL: The Venerable Servant of God, Mary Magdalene Postel, on the same day, month, and year. C. CARD. MAZZELLA, Prefect. * S. DIOMEDES PANICI, Secretary of the Sacred Congregation. BASLE, or TRECENS. Concerning the Beatification and Canonization of the Venerable Servant of God, Mary Francisca Saiesiae Chappuis, Abbess of the Monastery of the Visitation in the City of Trecens. Just as the enemies of the Christian name rage and become mad against those who profess the evangelical counsels, so much more does God stir up and foster love and the spirit of Christ within the bosom of the Church; thus, this admirable Mother confirms her divine and lasting fecundity and sanctity. Among the more distinguished nuns of the Order of the

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Visitation of the Most Blessed Virgin, it is fitting to mention Sister Mary Francisca Salesia Chappuis, whose life, as if foretold and adorned by the blessings of God, is confirmed by public testimony. This Handmaid of God was brought into the light and baptized on June 16, 1793, in the town commonly called Soghière, in the diocese of Basle, and was given the name Mary Teresia, and from her pious parents and from her uncle, the parish priest of that town, she received the principles of piety and religion. At the age of eight, she was admitted to the Holy Communion, and at the age of twelve, she was entrusted to the nuns of the Visitation in Freiburg. After four years, having become more mature and having returned home, she frequently and diligently listened to sermons on sacred matters from the priests living there, who had properly completed their ecclesiastical studies in Rome at the German-Hungarian College. When Mary Teresia reached the age of nineteen, she entered the monastery in Freiburg once again, and where she had once been a student, then became a nun, with the help of the Virgin Mother, she received the name Francisca Salesia, and began to observe the spirit and rule of her holy Founder, and, with the Most Reverend Bishop Tobias Venny of Freiburg working with her, she pronounced her religious vows in the year 1816. In the same monastery, she was chosen as the mistress of the novices, and the students who received precepts or admonitions from her mouth concerning the regular discipline secretly wrote them down, preserving and dispensing them faithfully. To several monasteries of the Visitation, especially in Trecens, Paris, Metz, and others, she was successively sent at their request.

[*Latin ed. p. 117*]

From the Sacred Congregation of Rites, 117 sisters were under her direction. In the monastery of Trecensi, which was restored in the year 1844, she shone forth until the end of her life, like a bright and burning lamp in the house of God. She enlarged the religious house, and reformed and increased the institution which received young girls from all of Gallia, distinguished by nobility, morals, and talents, and outside the monastery walls, she opened a school for girls in need. Men and women came to this handmaid of God, seeking counsel, help, and solace in difficult and arduous circumstances. She drew many away from the temerity of Gallicanism, from the superstition of Magnetism, and from the remnants of Jansenism. She saw, with great joy of spirit, that the sacred disciplines which she had drawn from pure sources were well established in the major seminary of Trecensi, along with the restored number of students attending the sacred Synaxis and the liturgy of the Holy Roman Church. She also worked diligently with pious and religious associations of both sexes, especially with the Daughters of Saint Francis de Sales, whose institution she had long foretold would be completed by her before she departed this life. Having accomplished all these things, the handmaid of God perceived that the time

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of her resolution was approaching; and indeed, at the end of the year 1875, in her eightieth year, she was struck by a fatal illness, and after receiving the sacraments of the Church, surrounded by her sisters who were weeping and lamenting, she passed away very piously on the morning of October 7th. The fame of the sanctity which Sister Maria Francisca Salesia had acquired in life spread so widely after her death that, upon properly adorned and legitimately opened process records prepared by the Most Reverend Ordinaries of Friburg im Breisgau, Basel, Trecensi, and Paris, and presented to the Sacred Congregation of Rites, a strong petition was made for further proceedings. Therefore, in response to repeated prayers from the Most Reverend Lord Nazareni Marzolini, Postulator of this Cause, also offered in the name of the Religious Order of the Visitation, especially considering the petitionary letters of many Most Eminent and Most Reverend Cardinals and many Most Reverend Prelates, as well as from men distinguished by ecclesiastical or civil dignity, and with a prior Apostolic dispensation from the intervention and vote of Consultors regarding the doubtful matter of introducing the Cause in the Ordinary Congregation, the Most Eminent and Most Reverend Lord Lucidus Maria Parocchi, Bishop of Portua and S. Rufina, Relator of this Cause, in the Ordinary Congregation of the Sacred Roman Congregation, held on the date indicated at the Vatican, proposed the following question for discussion: "Whether a Commission for the Introduction of the Cause should be appointed, in this case and for this purpose."

[*Latin ed. p. 118*]

118 FROM THE SACRED CONGREGATION: "What is the effect of the rite in question?" And the Sacred Congregation itself, after hearing the report of the aforementioned Eminence, and after mature deliberation and having heard the Reverend Father John Baptist Lugari, Promoter of the Holy Faith, decided to write: "Affirmatively, or to approve the Commission, if it pleases the Most Holy [Father]." July 27, 1897. With all of the above, the Most Holy Lord, our Pope Leo XIII, having been informed by the undersigned Cardinal Prefect of the Sacred Congregation of Rites, His Holiness, having approved the Rescript of the aforementioned Sacred Congregation, deigned to sign the Commission for the Introduction of the Cause of the Venerable Servant of God, Mary Francisca of the Salesians, on the same day, month, and year.

C. CARD. MAZZELLA, Prefect of the Sacred Congregation of Rites.

L. * S. D. PANICI, Secretary of the Sacred Congregation of Rites.

Concerning the custom of reciting in the vernacular language the little office of the Blessed Virgin Mary. The Most Reverend Prosper Joseph Maria Alarcon, the present Archbishop of Mexico, humbly presents the following to the Sacred Congregation of Rites: "The most ancient custom, which prevails in Mexico among the Tertiaries and Confraters of the Blessed Virgin

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Mary of Mount Carmel, of reciting in the Spanish language the little office of the Blessed Virgin, today suffers from a certain contradiction. Indeed, there exists an authentic response from the Sacred Congregation of Rites concerning a matter in Conception of Chile, in which, after explaining the custom, it is declared to be permissible. However, it is doubted whether the aforementioned decree can also be extended to the Mexican jurisdiction. Some say that it cannot be extended to the Mexican jurisdiction, since it is not a general decree; others contend that it clearly can be, because there are identical circumstances, and they cite the words of Cavalieri: 'The decrees of the Sacred Congregation of Rites have the effect that, even if they are given in response to particular requests or inquiries, they serve as a norm and example for the same and similar cases in the universal Church, etc.' To remove all ambiguity, the same Most Reverend Archbishop of Mexico has requested from the Sacred Congregation of Rites a solution to the following doubts:..."

[*Latin ed. p. 119*]

FROM SACRED RITUALS 119 I. In this case, can the response issued for the Republic of Chile be properly extended to the Republic of Mexicana, and be valid? II. To the extent that the answer to I. is negative, can a special dispensation be obtained for the Mexicana territory? Furthermore, the Sacred Congregation of Rites, after considering the report of the undersigned Secretary, having also heard the opinion of the Liturgical Commission, and taking into account the particular circumstances, decided to respond as follows: To I. Affirmative. To II. Provided for in I. And thus it was written on January 15, 1897. C. CARDINAL ALOISI-MASELLA, Prefect of the Sacred Congregation. L. S. DIOMEDES PANICI, Secretary of the Sacred Congregation. BARI. Concerning the precedence of the Tertiaries over confraternities. In the town of Triggiano, in the Archdiocese of Bari, a dispute arose between the Confraternity of the Most Holy Sacrament and the Sodality of the Third Order of Saint Francis concerning precedence in processions, and this was brought before the Archiepiscopal Curia of Bari. The Most Reverend Archbishop, on October 29, 1896, issued a judgment in favor of the Sodality of the Third Order. Feeling aggrieved by this judgment, the aforementioned Confraternity duly appealed to the Sacred Congregation of Rites. Upon receiving the appeal, and setting peremptory deadlines for both parties to present their arguments, and after these were presented, in an Ordinary Plenary Session held on the date indicated below, before the undersigned Cardinal Prefect of the aforementioned Sacred Congregation and the Advocate for the Cause, the following question was proposed and discussed: whether the judgment of the Archbishop of Bari in this case should be confirmed. After carefully considering all that was presented in the case, it was decided to respond as follows: Affirmative, that is, to confirm it. And thus it was written, and the judgment of the Archbishop of

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Bari in this case was confirmed. On March 27, 1897. C. CARDINAL ALOISI-MASELLA, Prefect of the Sacred Congregation. L. S. D. PANICI, Secretary of the Sacred Congregation.

[*Latin ed. p. 120*]

120 FROM THE HOLY CONGREGATION OF BISHOPS AND REGULAR CANONS. A QUESTION: Whether nuns can lawfully accept inheritances in favor of their own community. Most Blessed Father, the Bishop of Zamora, in Spain, prostrates himself before Your Holiness, and humbly explains: A certain Religious of the Order of Prémontré, residing in the convent of the city of N., in this diocese, possesses, according to the civil laws of Spain, the right to accept an inheritance, which has come to her through the death of her brother, a recently deceased priest. Therefore, the following is asked: 1. Can this Religious, having made a solemn religious profession, which she has maintained for a long time, lawfully, with a clear conscience, undertake legal proceedings, either personally or through a procurator, to acquire the inheritance in her own name before a secular judge, for the benefit of the entire Community, as is fitting; or rather, does she require a legitimate dispensation, by reason of her vow of poverty, to undertake these legal proceedings in order to acquire the inheritance? 2. Assuming that she requires a dispensation: can this be granted to her by the Superior of the convent, or by the Bishop to whom the convent is subject; or is it necessarily required, by reason of the solemn vow, that it be obtained from the Apostolic See? Finally, considering the necessity of appealing to the Apostolic See for the aforementioned dispensation, the Bishop, the speaker, humbly requests: 3. That this Religious be granted the faculty to initiate and complete legal proceedings through a procurator, for the purpose of acquiring the inheritance in her own name, which will benefit the entire Community. 4. That this Bishop, the speaker, be granted sufficient authority to dispense in similar cases concerning the vows of poverty, so that he may be able to provide for the urgent needs that regularly arise in such matters. And God... The Sacred Congregation of Bishops and Regular Canons of the Holy Roman Church, entrusted with the affairs and consultations of Bishops and Regular Canons, having considered the above, has decided to respond as follows: Regarding questions 1 and 2, provision will be made in the third [response].

[*Latin ed. p. 121*]

121 Regarding point 3: Affirmative, granting the requested permission, but so that the inheritance is acquired by the Monastery. Regarding point 4: Affirmative, granting the requested permission for a period of three years, but only in urgent cases, in which there is no time to appeal to the Holy See. Rome, 15th of January, 1897. FROM THE SECRETARY OF THE CONGREGATION AND REGISTRY, Most Reverend Cardinal Vannutelli, Prefect.

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Doubts concerning extraordinary confessors of Religious women. Dated 1st of February, 1892.

1. Is the favor granted to nuns to appeal to an extraordinary confessor whenever their own conscience advises them to do so so unlimited and unconditional that they can use it constantly without ever resorting to the ordinary confessor, and without being subject to any scrutiny on this point by the Bishop, and even prevented by him in some way if they are guided by reprehensible and frivolous reasons?

2. Do confessors, who are added [to the regular complement], have a duty of conscience to refuse to hear the confessions of the nuns, when they recognize that there is no plausible reason that prevents them from resorting to them?

3. If several nuns (and even worse, if the majority of them) were to constantly resort to one of the added confessors, must the Bishop remain silent, or intervene with some measure to protect the provision established in the bull *Pastor* [Apostolorum]: "It is generally decreed that for each monastery of nuns, only one confessor shall be appointed"?

4. And if he must intervene, what legal measures can he adopt?

Answers:

To 1: Negative.

To 2: Affirmative.

To 3: Negative regarding the first part, affirmative regarding the second part.

To 4: The Ordinary should warn the nuns and sisters, of whom we are speaking, about the provision of Article IV of the Decree *Quemadmodum* (1).

(1) This decree was referred to in Volume XXIII, page 505.

[*Latin ed. p. 122*]

122 FROM the Sacred Congregations, Epistles and Regulations: It is established that the dispensation [from the law] pertains only to cases of true and absolute necessity, whenever circumstances require it, while that which is prescribed by the Holy Council of Trent and by the Most Holy Constitution *Pastoralis Curae* of Pope Benedict XIV remains firm. FROM the Sacred Congregation of the Holy Roman and Universal Inquisition: Bishops who possess the faculty of dispensing from the defect of age, can dispense secular and regular clergy. On Thursday, January 29, 1896. In the General Congregation of the Holy Roman and Universal Church, before the Most Eminent and Most Reverend Cardinals, the following question was presented to the General Inquisitors concerning heretical perversity: In the quinquennial faculties granted by the Sacred Congregation of Propaganda Fide, under formula III, number 13, the faculty is granted "to dispense from a deficiency of one year of age, due to a shortage of workers, so that

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they may be advanced to the priesthood if otherwise they are suitable." The question is asked whether this faculty extends also to regular clergy. And after all matters have been diligently examined, and with the vote of the Most Reverend Consultors, the same Most Eminent and Most Reverend Cardinals ordered that the following answer be given: Affirmative. On Friday, the 30th day of the same month and year, after a detailed report on the aforementioned matters was given to His Holiness, Pope Leo XIII, His Holiness approved and confirmed the resolution of the Most Eminent Fathers. I. CANON MANCINI, Notary of the Holy Roman and Universal Church.

[*Latin ed. p. 123*]

From Section 123, Paragraphs concerning Inquisitions: An excommunication issued by the Most Holy Congregation of the Romans is not reserved to the Roman Pontiff, as is an excommunication issued by Him concerning a criminal offense, to those who communicate with an excommunicated person. On Thursday, June 16, 1894. In the General Congregation of the Holy Roman Church and Universal Church, held before the Eminent and Illustrious Cardinals, against heretical perversity, the following question was proposed to the General Inquisitors: In the Most Holy Constitution of Pope Pius IX [which begins with "Apostolicae Sedis"], are the following words understood to include those excommunicated by the Roman Congregations, at least when their decrees are approved by the Supreme Pontiff: "Those who communicate with an excommunicated person, specifically by the Pope in a criminal offense, that is to say, those who offer him assistance or favor"? After a thorough examination, and with the vote of the Illustrious Consultors preceding, the same Eminent and Illustrious Cardinals ordered that the following answer be given: "No." On Friday, the 18th of the same month and year, during the customary audience granted by the Reverend Father Assistant of the Holy Office, after a careful report was made concerning the above, His Holiness Pope Leo XIII approved and confirmed the resolution of the Most Eminent Fathers. I. CANON MANCINI, of the Holy Roman Church and Universal Church, Notary.

Can a confessor absolve a penitent from reserved matters reserved to the Roman Pontiff, for whom it would be difficult to wait for the necessary time to obtain dispensation? Most Blessed Father, the Bishop N. N. prostrates himself humbly before Your Holiness and explains. From the Decree of the Holy Inquisition of June 23, 1865, it is permitted to any confessor to directly absolve from censures, even those specially reserved to the Holy Father, in truly urgent cases, in which absolution cannot be delayed without the danger of a grave scandal or infamy.

[*Latin ed. p. 124*]

124 FROM the records of my Congregation, concerning matters legally

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mandated, under penalty of incurring the same censures again, unless, at least, within one month, the penitent seeks absolution from the Holy See through a letter and the mediation of a confessor. However, a doubt arises concerning the case in which neither scandal nor infamy results from the delay in absolution, but the penitent, burdened with papal censures for a mortal sin, must remain in that state for the time required to petition for and obtain the faculty to be absolved from reserved matters; especially since theologians, along with St. Alphonsus de Liguori, consider it exceedingly harsh for someone to remain in mortal sin for even one or two days. Therefore, after the Decree of June 23, 1866, lacking a solution to this question from the theologians, the following is asked:

I. In the case in which neither scandal nor infamy results from the delay in absolution, but it is very burdensome for the penitent to remain in a grave sin for the time necessary to petition for and obtain the faculty to be absolved from reserved matters, is it permissible for a simple confessor to directly absolve him from the censures imposed by the Holy Father, with the legally mandated penances, under penalty of incurring the same censures again, unless, at least, within one month, he seeks absolution from the Holy See through a letter and the mediation of a confessor?

II. And, if the answer to the first question is negative, must the simple confessor indirectly absolve the same penitent, warning him to seek absolution directly from a superior in the future, or to return to him after he has obtained the faculty to absolve from reserved matters?

Thursday, June 16, 1897.

In the General Congregation of the Holy Roman and Universal Inquisition, held by the Most Eminent and Reverend Cardinals, General Inquisitors for the matters of the Faith, concerning the aforementioned question and doubt, after the vote of the Most Reverend Consultors, the same Most Eminent and Reverend Cardinals judged that the following should be answered:

To I. Affirmative, with the understanding that the matter is to be communicated to the Most Holy [Father].

To II. As provided in the first.

On the following Saturday, the 18th day of the same month and year, in...

[*Latin ed. p. 125*]

FROM the Sacred Congregation for the Inquisition, No. 125, a customary audience granted to the Most Reverend Fathers Assessors, and reported to His Holiness, Pope Leo XIII, who approved the resolution of the Most Holy Fathers. I. MANCINI, Notary of the Sacred Roman and Universal Church, X^JI^Ö-. FROM the 3rd Congregation for Indulgences, from Milan. A doubt concerning the faculty of granting the Apostolic Benediction by priests returning from a pilgrimage to Rome. On June 19, 1897. The

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Professor of Canon Law in the Theological Seminary of Milan, reverently presents to this Sacred Congregation for Indulgences and Sacred Relics: "The Supreme Pontiff most benignly grants to priests returning from a pilgrimage to Rome the faculty of granting the Apostolic Benediction, using this formula: 'To the parish priests and to all those who care for souls, etc.' Indeed, among the priests who recently returned to this diocese from a pilgrimage to Rome, there are: 1° Those who are properly called parish priests; 2° Those who are spiritual administrators of vacant parishes; 3° Those who hold the care of souls as coadjutors by virtue of a benefice, and therefore quasi ordinarily; 4° Those who exercise the care of souls as parochial coadjutors, delegated by the Bishop for the universality of causes; 5° Those who reside in the service of coadjutors or chaplains in subsidiary churches, where they administer the Sacraments of Penance and the Eucharist, preach, and care for the sick; 6° Those who are rectors, superiors, moderators, confessors, or hold their place by virtue of office in seminaries, colleges, pious institutions, or even religious congregations. Therefore, the question is:"

[*Latin ed. p. 126*]

126 FROM S. G. CONCERNING INDULGENCES 1° Do parish priests and those who have care of souls in *tium* come under this, not only those who are listed under numbers 1 and 2, as it seems certain, but also those who are named under other numbers? And to the extent that the answer is affirmative: 2° Can the Apostolic Blessing be conferred multiple times on different days and in the same parish, in the case where a parish priest and his coadjutor, or two coadjutors of the same parish, return from a pilgrimage to Rome? The Most Holy Father Leo XIII, in an audience held on June 19, 1897, by the undersigned Cardinal Prefect of the Sacred Congregation for Indulgences and Sacred Relics, after hearing the report on the aforementioned question, declared: Regarding 1, that his intention was and is that the Blessing, concerning which we speak in this case, can and should only be conferred by effective and *oeconomi* parish priests governing vacant parishes; Regarding 2, that the Blessing should be conferred only once in each parish. Given in Rome from the Secretariat of the aforementioned Sacred Congregation, on the day and year as mentioned above. Fr. HIERONYMUS M. CARD. GOTTI, Prefect. L. JOSEPHUS M. Can. COSELLI, Substitute. Attached to this response, in honor of St. Francis Solanus, is an indulgence of 300 days. Fr. Raphael of Aureliaco, General Procurator of the Order of the Minor Observants, having bowed in reverence before the Sacred Foot, humbly implores that an indulgence of 300 days be granted to all the faithful of the provinces of Croatia, Carniola, and Peru, who devoutly recite the following response in honor of St. Francis Solanus, because these provinces are more afflicted than others by the scourge of earthquakes, and the faithful of these provinces have great devotion to this Saint, known as

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the Apostle of Peru, where his body is still preserved. And God, etc.

[*Latin ed. p. 127*]

FROM 127. SACRED CONGREGATION OF INDULGENCES – RESPONSE.

If you seek miracles now, cleanse yourself from sin;
With vows, Francis will be present, who restrains the earthquake.
He will alleviate the pains of the body,
And strengthen hearts trembling with fear,
And fill the depths of the breast with joy.
Oh! Now, Francis, hasten,
Lest the mountains tremble:
The devoted people demand it,
Worshipping you among the stars.
He will alleviate the pains, etc.
Glory to the Father, and to the Son, etc.
He will alleviate the pains, etc.
(ji.) Pray for us, holy Francis.
(R.) That we may be made worthy of the promises of Christ.

LET US PRAY.

O God, who through blessed Francis brought the many peoples of America into the bosom of the Church: avert your indignation from our sins through his merits and prayers, and mercifully send the fear of your name to the peoples who do not know you.

Through Christ our Lord.

AMEN.

SACRED CONGREGATION, having been entrusted with indulgences and sacred relics, and exercising the faculties specially granted by the Most Holy Pope Leo XIII, has graciously granted an indulgence of three hundred days, to be gained once a day by the faithful mentioned in the prayers, who recite this response with the attached prayer.

This is valid forever, from this day forward, without any brief being required.

Notwithstanding any contrary decrees.

Given in Rome, from the Secretariat of this Sacred Congregation, on the 28th of May, 1897.

Fr. H. M. CARD. GOTTI, S. R. C., Prefect.

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ALEXANDER, Archbishop of Nicopolis, Secretary.

[*Latin ed. p. 128*]

128 FROM THE SACRED CONGREGATION FOR EXTRAORDINARY AFFAIRS: Letter from His Eminence Cardinal M. Rampolla to the Archbishop of Vrhbohnen concerning the division of a parish.

Most Illustrious and Reverend Lord,

Since an appeal has been made to the Apostolic See regarding the division of a parish, carried out by Your Eminence within your own Archdiocese, it seemed fitting to me to inform Your Eminence of the response given by the Apostolic See, dated September 5, 1893, to the Apostolic Administrator of Banialuka. This concerned certain resolutions of the Sacred Congregation for Extraordinary Affairs regarding the division of parishes. The following question was raised: whether, given the necessity of dividing certain parishes, and the full legal rights granted to religious missionaries, the new filial parishes should also be endowed with the same rights in favor of those religious, so that they, along with the respective people, may undertake all obligations; to which the following was answered:

1. The division of canonically erected parishes must be carried out according to the law.

2. Religious have no right to a new parish, nor can the Bishop grant it to them.

3. Since the Bishop cannot consult with the religious regarding the same parish, recourse must be made to the Apostolic See for appropriate provisions, so that the religious may be able to provisionally administer it, with the understanding that it remains secular and subject to free collation.

I communicate this to Your Eminence according to the disposition of the Most Holy Father, dated November 16, 1896; and I also note that divisions may not be carried out except with the consent of the interested parties.

M. CARD. RAMPOLLA.

[*Latin ed. p. 129*]

129 ENCYCLICAL LETTER of the Most Holy Pope Leo XIII, concerning the Rosary of the Blessed Virgin Mary. It is easily understood by everyone who considers it, that the cult of the most august Virgin Mary is constantly fostered, and that her study is increasingly promoted, both privately and publicly. For God Himself has placed her on the highest pinnacle of dignity and glory. For from eternity, He ordained that she should be the Mother of the Word made flesh; and therefore, among all things that are beautiful in the threefold order of nature, grace, and glory, He distinguished her so that the Church may rightly attribute to her those words: "I came forth from the mouth of the Most High, the first-born of all creation" (1). And

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when the ages began to turn, and the authors of the human race, fallen into sin, and all their posterity infected with the same fault, she was constituted as a pledge of the restoration of peace and salvation. — The Only-Begotten Son of God has not hesitated to bestow honor upon His most holy Mother. For even when He lived a private life on earth, He associated her with Him as a most generous minister of both, the one of grace, by which the infant in the womb of Elizabeth rejoiced at the greeting of Mary; the other of nature, by which He transformed water into wine at the wedding in Cana. And when, in the fullness of time, He was about to establish a new covenant, to be ratified by His divine blood, He entrusted her to the beloved Apostle with those most sweet words: "After that, he saith to the disciple: Behold thy mother. And from that hour, the disciple took her to his own." (2). Therefore, we, although unworthy, who represent in the earth the person and office of Jesus Christ, the Son of God, must never cease to praise this great Mother, as long as we enjoy the benefits of this light. And because we feel that our own life will not be long, we cannot help but say to all and each of our children in Christ, who are hanging on the cross, the last words, as if a testament bequeathed: "Behold thy mother." And we shall consider that we have accomplished something worthy, if our exhortations should achieve this, that each and every faithful person should have nothing older, nothing more precious, than devotion to Mary, and that each may take the words of John, who wrote of himself: "He received her into his own" (3). — Therefore, as the month of October approaches, we cannot allow this year to pass without sending you, Venerable Brothers, our letters again, urging you with the solicitude that we can (1) Ecclesiasticus XXIV, 5. (2) John 19:27. (3) Ibid. Acts, Vol. XXX, page 351.

[*Latin ed. p. 130*]

130 A most important ENCYCLICAL letter, so that each one may strive to dedicate himself to the recitation of the Rosary, and so that the Church, which labors, may be consoled. Indeed, this manner of prayer seems to have greatly increased by divine providence at the close of this century, so that the piety of the faithful may be rekindled; and this is most clearly demonstrated by the magnificent temples and shrines dedicated to the Virgin Mother, which are celebrated with great devotion. — To this divine Mother, to whom we offer flowers in the month of May, let us also dedicate the month of October with a singular affection of piety. It is fitting that both times of the year should be consecrated to her, who said of herself: "As the vine I have brought forth a pleasant odour: and my flowers are the fruit of honour and riches" (Sir 24:23). The bond of society and communion to which men are drawn by nature, perhaps at no age is it more strongly felt, or sought with such diligence and common purpose, than in our own. And surely no one should blame this, unless this most noble impulse of nature were often perverted to wicked designs, when impious men, gathering to-

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gether in one and in various kinds of societies, turn against the Lord and against his Christ (2). However, it is to be observed, and indeed it is most pleasing, that pious gatherings are also increasingly being formed among Catholics; these are held to be most beneficial; they are bound together by the Christian bond of love, as if in common dwellings, so that all may truly appear and be seen as brothers (3). For, without the charity of Christ, no one can boast of fraternal society and name; as Tertullian vehemently asserted with these words: "We are brothers by the right of nature, of one mother, although you are scarcely men, because you are wicked brothers." But how much more worthy are those who are called and considered brothers who acknowledge one God, who drink of the same Spirit of holiness, who, from the same womb of ignorance, have awakened to the same light of truth (1). There are many reasons why Catholics often enter into such beneficial societies. Here belong, as they say, circles, and rural associations, as well as gatherings for relaxation on holidays, and retreats for the instruction of youth, and sodalities, and other groups instituted with the best intentions. Indeed, all of these, although they may seem recently invented in name, form, or their own particular and proximate purpose, are in reality very ancient. It is known that vestiges of such societies are found in the very beginnings of the Christian religion. Later, however, they were confirmed by laws and distinguished by their own characteristics (1).

(1) Eccli. XXIV. 23.

(2) Ps. II. 2.

(3) Apolog. c. XXXIX.

[*Latin ed. p. 131*]

ENCYCLICAL LETTER. Those things, endowed with 131 marks, privileges, destined for divine worship in temples, or for the support of souls and bodies, have been called by various names, according to the different times. Their number increases daily, so that, especially in Italy, there is no city, no town, and almost no parish, where these, or at least some of them, are not found. We do not hesitate to assign a most distinguished place to the sodality which is called after the Holy Rosary. For, whether one considers its origin, it possesses great antiquity, since it is said that the very Father Dominic was the author of such an institution; or whether one considers its privileges, it is adorned with many, granted by the munificence of Our Predecessors. The form and, as it were, the soul of this institution is the Marian Rosary, of whose power we have spoken at length on other occasions. However, the power and efficacy of the Rosary itself, as it is the duty of the sodality which takes its name, appears to be even greater. For it is well known what the necessity of prayer is for all, not that divine decrees can be changed, but, according to the opinion of Gregory, that men may, by asking, deserve to receive what Almighty God determined to give them from all eternity (1). And according to Augustine: he who knows how to pray

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well, knows how to live well (2). But prayers gain strength at that very time to obtain heavenly help, when they are poured forth publicly, constantly, and in harmony by many, so that they become, as it were, a single chorus of those who pray: which is clearly shown in the Acts of the Apostles, where it is said that the disciples of Christ, awaiting the promised Holy Spirit, persevered unanimously in prayer (3). Those who follow this manner of prayer will never lack certain fruit. This is already clearly the case among the members of the Holy Rosary sodality. For, just as the recitation of the Divine Office is publicly and constantly offered by the priests, and therefore with great efficacy; so, in a certain way, the public, constant, and communal prayer of the members is offered through the recitation of the Rosary, or the Psalter of the Virgin, as it is also called by some Roman Pontiffs. And since, as we have said, prayers offered publicly are much more efficacious than those offered privately, and have greater power to obtain [grace], it has happened that the name "militia praecan" (order of prayer) has been given to the Holy Rosary sodality by the writers of the Church, from (1) Dialog, i. c. 8. (2) In Ps. cxvii. (3) Acts i. 14.

[*Latin ed. p. 132*]

132 "ENCYCLICAL LETTER addressed to Father Dominic under the banner of the Divine Mother," which, indeed, the Divine Mother, in the sacred Scriptures and in the annals of the Church, greets as the destroyer of all demons and errors. For the Marian Rosary binds together all those who seek fellowship in this devotion with a common bond, as if of a fraternal or military company, and thus a most powerful army is formed, properly instructed and ordered, to repel the attacks of the enemy, whether they assail us from within or from without. Therefore, the members of this pious institution can rightly use the words of St. Cyprian: "Our prayer is public and common, and when we pray, we pray not for one, but for the whole people, because we are all one people" (1). Furthermore, the annals of the Church testify to the power and efficacy of such prayer, as they recount the defeat of the Turkish forces in a naval battle near the islands of Echinades, and the glorious victories achieved in the same century near Temesvar in Pannonia and on the island of Corcyra. Pope Gregory XIII wished to preserve the memory of this event perpetually, establishing the feast of the glorious victory of Mary; which feast our predecessor, Clement XI, later dedicated to the Rosary, and decreed should be celebrated throughout the entire Church. Moreover, since this praying militia is "enrolled under the banner of the Divine Mother," a new virtue and honor are added to it. This is especially evident in the repeated recitation, in the Rosary ritual, of the angelic salutation after the Our Father. It is far from being contrary to the dignity of the Divine Being, as it seems to suggest that we should place greater trust in the protection of Mary than in the Divine power itself, but rather, it shows that nothing is easier to move than the Divine favor, and

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that nothing is more effective in making us pleasing to Him. For Catholic faith teaches us that we should pray not only to God Himself, but also to the blessed in heaven (2), although in a different way, since what is requested from God, as the source of all good, is also requested from them, as intercessors. St. Thomas says, "Prayer is offered to someone in two ways, in one way as if it were to be fulfilled by that person, and in another way, as if it were to be obtained through that person." In the first way, we offer prayer only to God, because all our prayers should be directed to obtaining grace and glory, which only God gives, according to Psalm 83, 12: (1) De orat. domin. (2) Council of Trent, Session 25.

[*Latin ed. p. 133*]

ENCYCLICAL LETTER 155 "The Lord shall give grace and glory." But in a second way, we offer prayer to the holy Angels and men, not so that through them God may know our petitions, but so that our prayers may be efficacious through their prayers and merits. And therefore, it is said in Apoc. VIII, 4, that the smoke of incense, which is the prayer of the saints, ascends from the hand of an Angel before God (1). Surely, who among all the blessed who dwell in the heavenly mansions would dare to come into competition with the most august Mother of God in the striving for grace? Who in the eternal Word sees more clearly the distresses in which we are, the things of which we stand in need? To whom is a greater power granted to move the Divine will? Who can equal her in the feelings of maternal piety? It is, indeed, for this upon this reason that the blessed in heaven are not prayed to in the same way as God, for we ask the Holy Trinity that it may have mercy on us, but we ask other saints, whatever their rank, that they may pray for us (2); and truly, the rites concerning the Virgin have something in common with the worship of God, so that the Church compels her, as it were, with those very words with which she implores God: Have mercy on sinners. Therefore, the members of the Holy Rosary do well, weaving together so many Hail Marys and Marian prayers, as if they were garlands of roses. For Mary is so great, so powerful with God, that he who, in need of help, does not turn to her, would rather wish to fly without any wings. Also, the praise of the Society, of which we are speaking, should not be passed over in silence. For whenever we meditate on the mysteries of our salvation through the recitation of the Rosary, so often do we emulate the most holy offices, which were entrusted to the heavenly host of Angels. They, in their own time, revealed the mysteries, and they were present, diligent, sometimes with a countenance composed of joy, sometimes of sorrow, sometimes of triumphant exultation. The Angel is sent to the Virgin to announce the Incarnation of the eternal Word. In the Bethlehem cave, the Angels sing praises as the Savior is brought forth into the light. The Angel urges Joseph to flee and to take the child with him into Egypt. The Angel comforts Jesus in the garden, as he hangs on

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the cross, his blood flowing. The same Angel announces to the women that he has risen from the tomb, having conquered death. The Angels report that he has been taken up into heaven, and that he will return (1) S. Th. 2a. 2ae (2) Ibid. q. LXXXIV, a. iv.

[*Latin ed. p. 134*]

134 ENCYCLICAL LETTER concerning the angelic company, by which the souls of the elect are mingled and carried away to the heavenly choirs, over which the most holy Mother of God has been raised. Therefore, the most pious Rosary prayer is most suitable for those among the members who use it, to whom the Apostle Paul addressed the new followers of Christ: "But you are come to mount Sion and to the city of the living God, the heavenly Jerusalem, and to the company of many thousands of angels," (1). But what is more divine, or more pleasing, than to contemplate with the Angels, and to pray with them? What hope and confidence may they have, who will one day enjoy the most blessed company of the Angels in heaven, having, on earth, in some way dedicated themselves to their ministry? For these reasons, the Roman Pontiffs have promoted this Marian Sodality with the greatest zeal, in which Innocent VIII calls it the most devoted Confraternity (2); Pius V affirms that, with the same power, this has resulted in: "The faithful of Christ suddenly began to be converted to others, the darkness of heresies was removed, and the light of the Catholic faith was opened" (3); Sixtus V, observing how fruitful this institution has been for religion, declares himself to be most zealous for it; and finally, many others, either by granting it special indulgences, or by enriching it with abundant benefits, or by taking it under their special protection, having given it various names and published testimonies of benevolence. Moved by the examples of Our Predecessors, We also, Venerable Brothers, earnestly exhort and implore you, as We have often done, to devote special care to this sacred militia, and to do so in such a way that, with your cooperation, new recruits may be drawn from all sides day by day. Let others know, through your efforts and those of those who, under your authority, care for souls, and let them truly appreciate how much virtue there is in that Sodality, and how much benefit it brings to the eternal salvation of men. We demand this with the greater insistence, because at this time, the beautiful manifestation of piety towards the most holy Mother, through the Rosary, which is called the perpetual one, has again flourished. We have gladly blessed this institution; and We greatly desire that you strive diligently for its growth. We have the best hope that the praises and prayers, expressed from the mouth and heart of a great multitude, will never cease; and (1) Heb. XII, 22. (2) Splendor paternae gloriae, on February 26, 1491. (3) Consueverunt RR. PP. on September 17,

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1569.

[*Latin ed. p. 135*]

ENCYCLICAL LETTER 135. Through the various regions of the world, let the alternation of days and nights be joined with the contemplation of divine things. And let this perpetual praise and supplication, which for many centuries has been signified by those divine voices, by which Judith was called by the song of Ozias: "And Ozias the prince of the people of Israel, said to her: Blessed art thou, O daughter, by the Lord the most high God, above all women upon the earth,"... for today thy name hath been magnified, so that thy praise shall not depart from the mouth of men. And with these voices, the whole people of Israel proclaimed: "And all the people said: So be it, so be it." (1). Meanwhile, as a pledge of heavenly blessings, and as a witness of Our paternal benevolence, We impart to you, Venerable Brothers, and to the entire clergy and people, Our Apostolic blessing, earnestly in the Lord. Given at Rome, near St. Peter, on the tenth day of September, in the year one thousand eight hundred and ninety-seven, in the twentieth year of Our Pontificate. LEO P. P. XIII. FROM THE THIRD SESSION OF THE COUNCIL OF MUNKACEN. ON THE DISPENSATION OF MARRIAGE. May 8, 1897. Session 24, Chapter 5, On Matrimonial Reforms. SUMMARY OF THE CASE. Johannes, 27 years of age, and Maria, of 21 years, both Greek-Catholics, were lawfully married on February 9, 1882, in the parish church of Destofalva, in the diocese of Munkács, in Hungary. However, this marriage, due to the extraordinary behavior of the wife, had a most unhappy outcome. For, as is now reported, from the very day of the marriage, she showed the greatest antipathy and aversion towards her husband, and never wished to perform such duties to her husband. Indeed, in order to avoid the presence of her husband, she often left his house, fleeing to.

[*Latin ed. p. 136*]

136. MUNKÁCSEN. Trains travel there, or one might find them hidden in the fields, or even in the forests and caves. Unfortunate John is said to have used empty prayers, threats, and even beatings to try to bend his wife's stubborn will; however, on the Feast of the Epiphany of the Lord, in the year 1883, she definitively abandoned their marital home and, with bare feet, walked through the snow-covered paths to her mother's house, never returning to her husband's home again. The man, over time, several times attempted reconciliation with Mary, but always without success; for she went to Munkács, and there, serving in the service of others, she began to lead an immoral life and bore two illegitimate sons. Then, John, so that his wife's scandals might cease, and so that he might protect his own honor, petitioned the Episcopal Curia of Munkács in the year 1891, requesting that a process for the declaration of the non-consummation of his marriage be

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instituted. The Episcopal Curia, first seeking a peaceful reconciliation of the spouses, but having obtained nothing from the Most Holy [See], in February of 1892, took up the cause. Transmitting the acts and documents of the process to the Sacred Congregation, it vehemently recommended the petitioner's request, and also urged that the cause be resolved as quickly as possible, because a new, scandalous marriage is to be feared, one that is deficient in the Catholic faith.

A SYNOPTIC DISCUSSION.

OPINION OF THE THEOLOGIAN.

From the facts presented, I believe that in this case, we are dealing with a marriage that is valid, but not consummated, due to the wife, Mary's, stubbornness in fulfilling her conjugal duty; therefore, only two things need to be investigated:

1. Whether, in truth, the marriage between the aforementioned spouses has not been consummated.

2. Whether there are legitimate reasons for the dissolution of the marriage, and for obtaining the grace of a dispensation from the Supreme Pontiff.

[*Latin ed. p. 137*]

MUNKACSEN. 137 And first of all, it must be noted that the necessary proofs cannot be obtained from anywhere other than from the confession of both spouses, and from the testimony of seven witnesses, for the examination of the woman, which is required by the sacred canons, would be entirely useless, if she, having completely abandoned her husband, had carnal relations with other men and had borne two children. Therefore, we must first hear both spouses, and then consider the testimony of the seven witnesses. And first, in the process, John appears, who, when questioned by the seventh judge regarding the consummation of the marriage, answers thus: "We never had carnal intercourse. Indeed, I tried to consummate the marriage with words, with prayers, but my wife always showed antipathy and aversion towards me, even uttering imprecations. I did sleep in the same room, but my wife always slept in the bed of my mother, or in a corner near the bed, while I slept in the other part of the room, on a couch, and often I slept outside the house, in the courtyard. During the day, she always avoided my presence, and if she found my clothing, she would throw it away, saying that it was as foul as a certain very foul animal, in Latin, a *mustela* [weasel], from whose stench, the life of birds is extinguished. There was no mention of embraces or kisses between us, since she even abhorred the touch of my hand." He confirmed that all these things were

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true by the sanctity of his oath. In answer to the 14th question, namely, whether he had any part in the two children born by his wife after the separation, and whether he had ever consummated the marriage with his wife? After the defender of the bond warned the Accused of the terrible crime of perjury, he, full of peace of mind, and with precision, swore according to the Gospel, that he had never consummated his marriage with his wife through carnal intercourse. See the records of the process. Considering all the testimonies of the Accused, it is clearly demonstrated that he confirmed, by three oaths, what he spontaneously stated. Mary, the spouse, when questioned about the consummation of the marriage, answers to the seventh question.

[*Latin ed. p. 138*]

138. MUNKACSEN, with these words: "My husband indeed attempted, by word, to consummate the marriage, but I resisted, and did not permit him to approach me. I slept in the extreme corner of the marital bed, while the husband slept sometimes inside the house, on a chair, and sometimes outside; and during the day, we were always far from each other." Regarding the tenth question, which is: "Are you prepared to swear by the Holy Gospel that you have not had carnal relations with your husband, and that the two children are not born of your husband?" After the Defender of the Bond inquired about the sanctity of the oath, etc.: she readily swore that she had never consummated the marriage with her husband through carnal intercourse. These testimonies perfectly agree with the second response, which reads: "We celebrated the marriage with John in Destofalva, but the ecclesiastical ceremonies were performed in the town of Jokesen ten years ago. Before the marriage, no one forced me to marry my husband, for I, although I did not personally know him, willingly consented to marry him. But from the very beginning of the marriage celebration, a certain inexplicable antipathy arose in me towards my husband, although when asked if I loved him, I gave an affirmative answer, hoping that this antipathy would be surmountable: but that hope failed me. Upon entering my husband's house, I could not look at him with a good heart, and I repelled him when he approached me; I readily conversed with the other inhabitants of the house (family members), but if my husband came among us, I turned away from him, and indeed, I did not hesitate to flee the house on more than one occasion. I cannot accuse anyone of being the author of discord between us. After the marriage oath, I remained in my husband's house for about two weeks, and then I fled to my mother's house in Destofalva. Then, shortly after, first my mother, and then my husband, brought me back to Sztanfalva, to the husband's house, but I no longer remember how long a time I continuously spent in the husband's house. On the feast of

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Epiphany..."

[*Latin ed. p. 139*]

MUNKACSEN. One hundred and fifty-nine years after the celebration of the marriage, during the blessing of the water, I fled from my husband amidst the snow, reaching as far as Kuthafalva, where I hid with an elderly woman; the following day, I went to another town, where I stayed for three days with another old woman. There, I was discovered by my husband, and I was beaten by him, so that I would return to him. "Until the inn at Mount Hat, we proceeded together with my husband, but there I fled from him towards Manarfalva. My husband now also pursued me, but after I disappeared from his sight, he ceased to pursue me. I remember that once, before the priest of Sztanfalva, again before the curate of Tohes, and finally before the curate and vice-archdeacon of Zirefalva, we were urged to live together peacefully, but I refused to reconcile, because of an insurmountable aversion." Carefully considering the aforementioned testimonies of both spouses, which have been confirmed on several occasions by the sanctity of their oaths, it will immediately become apparent that they bear the marks of truth, and that all possibility of collusion or deceit is completely excluded. Indeed, the woman has consistently demonstrated, from the very moment of the celebration of her marriage, until the final separation from her husband, a clear aversion and hatred towards him; this hardness of her obstinate heart persisted for a long period of ten years. Thus, it would seem that she was afflicted by a disease of the affections, or perhaps possessed by a demon, especially considering what she did and endured, refusing to comply with the just desires of her husband; preferring to serve in the service of others, and to lead a life of shameless licentiousness, rather than fulfilling the duties proper to marriage. Likewise, John seems worthy of true admiration, who, although he left no stone unturned to overcome the stubbornness of his wife, nevertheless, despite her persistent resistance, managed to maintain his marital rights, offering a singular example of patience over the course of so many years, and who, without hesitation, declared before the Tribunal, under the sanctity of his oath, what was true.

[*Latin ed. p. 140*]

140. MUNKACSEN. Having heard the testimonies of both spouses, which completely exclude the consummation of their marriage, the Consultor reviewed the depositions of all the witnesses, which, in this case, are of the gravest importance, especially since they are not only unanimous, but are also perfectly in accordance with the confessions of both spouses, confirmed by their oaths, and completely exclude the consummation of the marriage; so that they seem to proclaim this truth with one voice. Therefore, without any unnecessary words, and in order to

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be concise, I believe that the principal foundation of this case is now safely established. Here, Coscius, *De separ. tori*, book 3, chapter 2, number 256, says: "Therefore, when there is the agreement of both spouses, especially if it is repeated with an oath, and also with an oath of the seventh hand... publicly proclaimed and supported by reputation, and other supporting evidence, nothing seems to prevent the power [of the Church] from acting; for there is a considerable distance between power and effect." To further clarify the aforementioned assertion, he briefly recalled the same depositions: indeed, they most clearly demonstrate the antipathy of the spouse, Mary, towards her husband, which arose at the very moment of the marriage celebration, and which she has not rejected through any religious or natural means; her constant perseverance in denying the consummation of the marriage to her husband, even though she has been urged to do so by words, prayers, beatings, and even force; also, her persistent reluctance to speak, collaborate, or eat with her husband, and even to live with him, from whom she has repeatedly fled, both during the day and at night, hiding herself in forests or in other people's houses; so often she has been diligently sought out by her husband, and brought back to their conjugal home, only to suddenly escape from him again; moreover, she has often been severely reprimanded by ecclesiastical authority to enter into peace with her husband, and to obey him, and even frightened by threats from the civil authorities. But she has scorned all of these things, and thus, falling from bad to worse, she has fallen into a slippery path, and has brought forth two children.

[*Latin ed. p. 141*]

WORKS. She bore 141 children with him. Therefore, this foolish woman, either out of love or, more likely, possessed by a demon, is to be considered. Consequently, since it is established from the aforementioned facts that the marriage was not consummated, the question remains whether there are just grounds for obtaining a dispensation from the Holy Father. On this matter, the unanimous opinion of Theologians and Canonists holds that alienation of affections is the primary consideration, and from the entire course of events, this prolonged alienation, lasting ten years, is clearly and abundantly demonstrated, to which the explicit will of both spouses is manifestly added. OPINION OF THE CANONIST. The Consultor, considering the facts presented, states: "Two questions arise spontaneously: I. Whether it is established in this case that the marriage was not consummated. II. Whether there are legitimate grounds for granting a dispensation regarding a marriage that is both valid and not consummated. I will address these two questions through a canonical process, so that, with God's help, we may successfully reach the desired conclusion for the Reverend Ordinary of the spouses. First and foremost, I believe it is important to note that the canonical process in this case presents no irregularities. All the essential

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elements of the process have been completed according to the norms of the Benedictine Constitution, thanks be to God. If you claim that there is a lack of documentation regarding the physical examination of the woman, the answer is found in the very facts that we have already stated. Therefore, how could the integrity of the woman's marital rights be examined, if it is undoubtedly known that this integrity was lost by the woman through carnal intercourse with other men, from which two children were born, as is evident from the parish records submitted to the process? Therefore, the process records and those properly completed by the defender of the bond are to be considered. But are the contents of these aforementioned records sufficient to prove the non-consummation of this marriage? I believe that an affirmative judgment is more accurate. Indeed, all the witnesses, duly and under oath, questioned on this matter, agree that the wife, immediately after the marriage, was seized by aversion and hatred towards her husband, and therefore did not

[*Latin ed. p. 142*]

142. In MÜNK AC S E N., they did not take meals together, she never turned her eyes towards her husband, and she remained far from her husband, day and night, even within the marital home. Not only did she detest her husband, but she also abhorred his clothing. Finally, she never lay with her husband, but at the very end of the bed, in the husband's room, she slept at night and continuously, as witnesses testify. These kinds of testimonies are largely corroborated by other witnesses from both sides. If we add to this the sworn testimony of the spouses, in which, under the sanctity of oath, they assert that they never had marital relations, that the wife was defiled by other men, and that the two children born to the wife were conceived by other men whom the woman knew during her service, for which reason she was far from her husband, with whom she had no communication, not even by letter, we are justly led to conclude that all of this constitutes moral certainty of the non-consummation of this marriage. Let us hear the most learned Cosci, who in book I, on the separation of spouses, chapter 16, number 14, masterfully teaches: "This proof, that is, of a valid but unconsummated marriage, can be provided by witnesses who testify that the spouses, after contracting marriage, always remained separate in the presence of others, and that they separated from each other in the sight of those same people, and even more so if the testimony of these witnesses is accompanied by the sworn assertion of both spouses, in which they jointly deny the consummation of the marriage; with these concurring proofs, there can be no doubt that the marriage is only valid..." The doctrine related, since it fits graphically with our case, it must necessarily be concluded that the non-consummation of this marriage is established. In this sense, the proceedings proceeded in Ancona on April 14, 1894, with the decree "it is absolutely required that the aforementioned spouses never

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meet in the same place, except in the presence of arbitrators." However, the records show that these spouses were indeed in the same place, but always in the presence of arbitrators, who testify that the wife never kissed her husband, and that he never embraced her.

[*Latin ed. p. 143*]

MUNKACSEN. 143, neither having spoken with him, nor ever having treated him amiably. Moreover, it must be said that she never had marital relations with him. This, in any case, cannot be denied, for it is certainly and most clearly established by the facts that, neither was force used upon the woman, as the documents clearly demonstrate. Therefore, whatever way you turn, the consummation of this marriage is found to be lacking, and this is fully confirmed by the documents. Therefore, I say that the first question must be entirely answered in the affirmative. Regarding the second question, in order to proceed, whether there are causes for granting a dispensation from a valid but unconsummated marriage; these will be found in the perpetual estrangement of the parties, especially of the woman, who never wished to reconcile with her husband, although she was approached three times, in the morbid aversion and implacable hatred of the same woman towards her husband, which nature itself repels, in the two children whom the woman conceived from other men, while she was far from the legitimate husband, which is most injurious to him, for it damages, indeed destroys, the conjugal fidelity, the greatest good of marriage. Since these things are so, I do not hesitate to affirm that there are more, and indeed very serious, causes for granting a dispensation. In the present case, it is established that there is a lack of consummation of the marriage, and that there are causes for granting a dispensation. OBSERVATIONS OF THE DEFENDER OF THE MARRIAGE OFFICE. Maria, who, being 21 years old, was married to Johannes, who was then 27 years old, on February 9th, in the year 1882, departed from her husband on January 6th, 1883, that is, less than eleven months after the marriage. Therefore, Johannes has been urging since 1892 that the conjugal bond be relaxed; and he ultimately contends that Maria has been permanently restored to the consummation of the marriage. When both spouses come to confession, they are found to be suitable for conjugal life, and since Maria has given birth to more than one child during the marriage: "This proof of the unconsummated marriage, as Cose states in *De separ. et cons. mat.* lib. 1, cap. 16, n. 14, can be provided by witnesses who testify that the spouses..."

[*Latin ed. p. 144*]

144. MUNKACSEN. In the marriage contract, it is stipulated that the spouses "shall never be together at the same time in that place, or at least that they shall always remain in the presence of other persons, and shall separate in the sight of those present." It is beyond dispute in the present

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case that the spouses were together at the same time in the same place. However, it is not proven that they always remained in the presence of other persons, and that they separated in the sight of those present. Indeed, the contrary is evident. Moreover, John Matertera affirms: "When the woman (Mary) was in our house, she always slept in the extreme part of my bed, on a seat; her husband, on the other hand, was usually outside in the courtyard; but I concede, although I do not remember it well, that SOMETIMES she also spent the night inside the house." Is it conceivable that Mary, on those nights when John was sleeping in the same room, did not descend from the seat, and did not converse with her husband? The same John Matertera reports: "The day after, John and his wife went to a feast; while they were returning, the wife, having left her husband in the forest, returned alone to the house." When going to the feast and returning, John and Mary were without witnesses and arbiters. Witnesses indeed recount a certain antipathy of Mary towards John, but I fear that this may have arisen LATE, that is, after the marriage had been consummated. Furthermore, until the marriage, Mary showed a particular sympathy towards John. Mary's mother testifies: "My daughter gladly married John; indeed, she boasted among her neighbors that her fiancé was like a certain lord." However, "when the day of the wedding arrived, my daughter impatiently awaited her fiancé, so much so that she urged him to go to the town of Tokésien to celebrate the marriage." The testimony of Mary's mother is corroborated by a group of witnesses; and therefore, the account of George, Mary's brother, seems true: "After the marriage (he says), we saw our sister to be afflicted with boredom towards her husband; for this reason, she..."

[*Latin ed. p. 145*]

MUNKACSEN. 145. I have heard this, but my sister has reported that her husband, before taking the marriage vows, emitted a stench like that of a weasel or a marten, a certain animal. For if John already smelled so strongly on the wedding day, I believe he must have smelled even worse at less formal times; and therefore, Mary must have certainly perceived the unpleasant odor during their pre-nuptial conversations. With these things noted, the question was raised whether to consult with the Most Holy Fathers regarding a dispensation from a marriage that was valid but not consummated.

RESOLUTION. The Sacred Congregation, after deliberation on May 8, 1897, decided to respond: Affirmative.

COLONIA: CELEBRATION OF MASSES. On June 26, 1897, Session 22, Chapter 6, Concerning Reforms.

SUMMARY OF FACTS. The Archbishop of COLONIA reported that, in the Archdioceses of COLONIA, in a place formerly called "Auf der Hütten," now called "Schevenhütte," the noble spouses Theodorus a Leers and Anna Richmundis de Bercheim established an endowment in a chapel

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built by them in honor of the Most Holy Trinity. They established a dowry for this endowment of one thousand gold florins and six *jugera* of land, under the condition that the beneficiary "on Sundays and feast days, diligently perform the Divine Sacrifice of the Mass, and also a brief exhortation in the parish church in Gressenich, at those times, so that he may not cause any impediment to the celebration of the sacred rites, but rather that all Christian souls in the surrounding area may be able and should be able to attend the sacred rites in one place or the other; in which celebrations, the beneficiary..."

[*Latin ed. p. 146*]

"The people of Cologne will remember the founders and their relatives and friends, and on Sundays will instruct the youth in the Catholic faith. In order that the beneficiary may duly remember, for a time, the founders, their deceased relatives, and their successors, he will be expressly obligated, and we desire, that if two holidays occur in a week, he will offer nothing to God besides what has been mentioned above; but if the week is free from holidays, he will, on each Monday, offer prayers for the deceased founders, their successors, and their friends, and on Thursday he will celebrate the feast of the Most Holy Trinity and offer it to God."

"Indeed, almost thirty years later, on December 6, 1699, Joseph Clemens, the Archbishop of Cologne, erected the aforementioned chapel into a parish, and granted to the inhabitants and their successors the right and power to present their own priest, who should perpetually reside in the endowed house, and to preach the Word of God, and to administer the divine offices and all the sacraments and everything pertaining to the care of souls."

"It appears that the revenues of that benefice, at that time, were applied to the new parish, but that no mention was made of the beneficiary celebrating Mass on Sundays and holidays. The right of patronage, which had been granted to the founders and their heirs in 1668, was now, in 1699, granted to the inhabitants of Schevenhütte."

"How this is to be explained is not entirely clear from the documents of the archives, whether parochial or archiepiscopal. After this time, very little is found that could shed light on the matter. It seems only to be added that the principal sum of one thousand gold florins, of which mention has been made above, was sequestered by the Government during the so-called French Revolution. In the year 1885, the Prussian Government recognized itself as indebted to the parish of Schevenhütte for this sum, as well as for interest, for a total of 17,300 German marks, i.e., 21,265 Italian lire, and from then on, annually, the parish priest..."

[*Latin ed. p. 147*]

COLONIENSIS 147 of that place paid 692 German marks, that is, 865

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Italian lire, as revenue from the aforementioned sum. Therefore, the current parish priest of that place, as the Ordinary states, is anxious that the Mass be celebrated every Sunday and on feast days, according to the terms of the original foundation. Indeed, it appears that no Mass has ever been celebrated in that place since the location of Schevenhütte was established as a parish. Moreover, on the Sunday of March 17, 1727, a certain family named Wingen, in the same parish church of Schevenhütte, founded another simple benefice under the invocation of the Blessed Virgin, and it was stipulated that the beneficiary should say Mass every Sunday and on feast days in the morning. Therefore, if, in addition to the parochial Mass, a Mass was said for the founders of the benefice of the Most Holy Trinity at that time, how could a third Mass have been deemed necessary in this small parish, which is scarcely conceivable. Consequently, since the solution to this matter appears to require the intervention of the Holy See, I humbly beseech you, Most Blessed Father: 1. that you would deign to judge whether the obligation to apply the Mass on Sundays and feast days for the founders and their relatives is sufficiently clear, or not. 2. that you would judge whether the parish priest of Schevenhütte, who actually receives the revenues of the benefice founded by the spouses of Leers, after the erection of the parish of Schevenhütte, was obligated, in addition to the Mass said every Sunday and on feast days for the parishioners, to say another Mass on those same days or rather on the following days, for the intention of the founders. 3. that, if it should be necessary to answer affirmatively to questions 1 and 2, you would deign to grant a merciful remission for the past. Because it is evident from the facts that these changes were made, so that a chapel of lay patronage was erected into a parish church, without the patrons, the founders, being heard, and that the right of patronage was then granted to them and to the inhabitants (of the village of Schevenhütte) and their successors; and that Masses have not been celebrated on Mondays, nor on Thursdays, according to...

[*Latin ed. p. 148*]

148 The Cologne document explicitly states the will of the founders, namely, "that if the week is free from feasts, on each Monday the beneficiaries shall offer prayers for the founders, their successors, and their deceased friends, and on Thursday they shall celebrate the feast of the Most Holy Trinity and offer it to God"; therefore, the Archbishop of Cologne investigated whether there were still living heirs of the founders who could claim their rights. The Ordinary responded on August 28th: "Regarding the benefice in honor of the Most Holy Trinity, established for a chaplain in Schevenütte, in the Archdiocese of Cologne, in the year 1668, and erected as a parish in the year 1699, a new investigation has been instituted. From this investigation, it has been determined that there is no one currently living who has an interest in the benefice originally

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established, or in the lay patronage granted therein. But, in addition to the documents that were known to me in the year 1893, other documents, although not entirely sufficient to fully clarify the matter, have been found." A Synopsis of the Arguments. From these points, it is clear that the question is whether the changes introduced by the passage of time should be considered valid in relation to the foundation of the noble patrons; and since the reasons and causes for the changes are obscured by the depths of antiquity, it must be asked whether the remedy of prescription should be admitted. Indeed, in this case, the law of the foundation has undergone changes almost thirty years after the will of the pious founders was issued; and it is not certain that the patrons consented to the erection of the parish church, or to the change in the burdens that were added, which, moreover, the Archbishop could not, by his own authority, determine. It is also well established that bishops cannot, by their ordinary power, change pious legacies, and that such foundations are subject to the strictest laws, as is shown by numerous arguments in Benedict XIV, *De Syn. Dioec.*, book 13, chapter 25, paragraph 22. Therefore, if the changes that have taken place are to be considered valid in relation to the original foundation, recourse must be had to the force of a very long prescription, which is said to be...

[*Latin ed. p. 149*]

COLONIA: A more suitable title for this matter is "regarding the world," and it requires the assumption of Apostolic approval. However, an obstacle to admitting prescription arises from the decree of the Council of Trent, Session 25, chapter 5, concerning reforms, where it is decided that ecclesiastical benefices and pious endowments are never to be removed in any way from the law of their foundation; for "whatever they may have been established, they are to be observed so that nothing is taken away from their qualities or orders, and otherwise the provision made shall be considered surreptitious." Therefore, a consistent opinion has been held by the Sacred Congregation, in which the principle has been affirmed that prescription, even if of very long duration or of ancient standing, is not to be invoked to prove changes introduced in the observance of pious foundations. The reason for this rule is clearly stated, since it has been observed that prescription, according to Roman and canon law, is established against negligent citizens who do not diligently observe and protect their rights and affairs; see chapter 5 of the book "De praescriptione." But in the case of pious endowments, especially masses, if prescription were to be of assistance, it would work to the detriment of those who are entirely free from fault and negligence, namely, those whose souls are exposed to the flames of purgatory, who would not be able to vindicate their rights in the ecclesiastical court. For a similar reason, the rule is established: that against those who are not able to act, prescription does not run; therefore, against minors and others who are not able to act, prescription does not proceed during

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the period of minority or impediment; see the law "Sicut in rem," Code on Prescription, articles 30 or 40, and law 1, § final, Code on Exceptions for Anniversaries. Among the many decisions of the Sacred Congregation clearly affirming this law, the response issued in FERMO on August 12, 1843, is particularly relevant; in which this case was presented: The founder, by will in the year 1683, imposed upon a chaplain the obligation to say two Masses for himself each week, with the condition that if he himself did not celebrate, except for reasons of infirmity, he should be obliged to give to another priest celebrating the entire portion of all the offerings.

[*Latin ed. p. 150*]

In Cologne, the chaplain is obligated to provide, each day, a portion of the fruits of the benefice proportionate to the day. However, from the year 1691 until the year 1831, no mention of this obligation was made in the founding documents, and therefore, the fulfillment of this pious intention had fallen into oblivion and disuse. In the year 1831, the chaplain, having been informed of the testamentary provision, obtained an indulgence from the Holy Office for a period of three years, so that he might celebrate Mass through another priest. This indulgence was extended after the first three years had elapsed; but upon the arrival of a second three-year period, a response was issued stating that the testamentary provision should be observed in the future. In this situation, the Archbishop issued a decree in 1841, by which it was established that the chaplain, if he omitted the celebration of Mass, should pay a portion of the fruits of the benefice according to the intention of the testator; that each year the chaplain should present to the vicerector a statement of the active and passive assets of the benefice, for the purpose of determining the amount to be paid by the chaplain to the one who would celebrate the sacred rites; and finally, that it would not be permitted for the chaplain to postpone or omit the celebration of two Masses for more than one week. Therefore, the chaplain, who had obtained the benefice by right of passive succession and resided elsewhere, raised a doubt: "Whether the decree regarding the sacred visitation should be affirmed or rejected in this case." The Holy Office responded on August 12, 1843: "Negatively to the first part; affirmatively to the second part." It should also be noted that in section V of this case, there was a doubt as to whether, in the case in question, observance had any weight, either in a prescriptive or, at least, in a presumptive sense: that is, whether it would induce a presumption of Apostolic approval, duly obtained in order to change the will of the testator; but this exception did not move the minds of the E.E.P.P. [Most Excellent Fathers]. On the contrary, it is important to note that, with regard to the changes made to the subject matter, a distinction must be made between changes that have occurred in the law of patronage and in the very erection of the chapel, and the change introduced in the execution of the pious obligation of celebrating Masses. If, with respect to

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these other changes, nothing is done, then the force of prescription should be admitted, and he should be exempted as if under a new law.

[*Latin ed. p. 151*]

COLONIENSIS 151, fontem. For the rights of patrons are subject to prescription, a matter well-established in law. — Therefore, there is considerable difficulty in proving the alteration that has affected the very obligation of celebrating Mass on certain days, by applying those same Masses for the souls of the founders. — Regarding the reduction or alteration of these obligations, the opinion that prescription does not exert its force is more probable, but nonetheless strongly disputed, as is evident from the review of authorities cited by Ferraris, *Biblioth. can.*, verb. *Usucapió*, a. 1, % 1, n. 6 *seq*. Furthermore, St. Pius V teaches in *De Visit.*, *sacror. liminum*, V. II, cap. 7, art. 1, n. 12 *seq.* that the Holy See adheres to a negative opinion. Finally, it is permissible to note that the authorities of the Doctors most strongly demonstrate the alterations introduced in benefices and chaplaincies with regard to the laws of the foundation in general; and from this, they proceed to chapter 5, *De praebendis*. But these same Doctors do not so clearly assert that prescription should also be invoked to reduce the obligations of Masses, or to change them in number. Moreover, it must not be overlooked that the rector of the parish church truly celebrates Masses for the people on each festive day, and yields the fruit thereof, according to the intention of the Mother Church, for the benefit of the pious founders who have died in the Lord. Hence, in this respect, the founders whose goods still serve the endowment of their Church, and their successors, certainly receive a spiritual benefit from the celebration of Masses that are applied for the people. Therefore, only in part is the will of the founders observed today, because the celebration of Mass is omitted on certain non-festive days, namely on Tuesdays and Fridays, when no other festive days occur during the week. Finally, it has been left to the Fathers to deliberate whether, for the sake of the greater benefit of souls, or the spiritual good received from the established parish church, both for the living and the dead, the spiritual loss derived from the pious founders and their successors due to the not fully fulfilled pious obligation of Masses, should be compensated.

[*Latin ed. p. 152*]

152 In Cologne, today, it is suggested that the Masses be reduced, due to the diminished amount of revenue. After these considerations, it was remiss of the Fathers to resolve the following questions: I. Whether the changes introduced in the chaplaincy and in the execution of the pious work of Masses should be considered valid. II. Whether and how to proceed regarding the reduction of the pious work with respect to the future, and regarding the forgiveness of past omissions. RESOLUTION. The Sa-

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cred Congregation of the Council, after deliberation on June 26, 1897, decided to respond as follows: To I. Affirmative in all respects. To II. Provision is made in the first. FROM THE SACRED CONGREGATION FOR RITES IN ROME. Firmly maintaining the feast of the Most Sacred Heart of Jesus, which is attached to the sixth feria after the octave of Corpus Christi, it is granted to the Ordinaries of the places to transfer the external solemnity of the same feast, with the privilege of celebrating the proper Mass of the same Most Sacred Heart, with certain observations. The Congregation of Secular Priests of Saint Paul the Apostle in the City humbly informed the Supreme Pontiff, Pope Pius VII, that in many churches, for just reasons, not all the same, the feast of the Most Sacred Heart of Jesus is usually celebrated on a day other than the one established by the Church; therefore, they supplicated Him to grant permission for the proper Masses of the Most Sacred Heart of Jesus to be celebrated on that day on which the feast is held; and also to grant a Plenary Indulgence to all the faithful who, having confessed and received Holy Communion, offer pious prayers in the church where the feast is celebrated, according to the intention of the Supreme Pontiff, D. O. M. His Holiness satisfied these requests as follows: "From the Audience of His Holiness, on July 8, 1815. His Holiness benignly granted, in all respects and forever, permission for the Ordinaries of the respective places to transfer the day of the feast; contrary provisions notwithstanding. P. F. Cardinal Galeffi."

[*Latin ed. p. 153*]

From the Sacred Congregation of Rites, a response (Rescript) concerning a petition presented to the Sacred Congregation of Rites, the Moderator of the Primary Congregation of the Most Sacred Heart of Jesus, located in the church of "Pace" in the City, humbly requested: "Whether, according to the practice of the aforementioned Sacred Congregation, all Masses proper to the Most Sacred Heart of Jesus may be celebrated on the solemnity transferred to another day, and on any day designated by the Ordinary of the place, in the case specified?" And the Sacred Congregation of Rites, after consideration by the undersigned Secretary, after hearing the opinion of the Liturgical Commission, and after careful deliberation, decided to respond as follows: "While the Feast of the Most Sacred Heart of Jesus remains fixed on the Saturday after the Octave of Corpus Christi, and is annually observed with the Office and the proper Mass according to the rubrics and decrees, the external solemnity of this feast, according to the terms of the aforementioned Rescript, may be transferred to another day designated by the Ordinary of the place, even with the privilege of celebrating the Mass proper to the Most Sacred Heart of Jesus; however, this privilege, according to the practice of the Sacred Congregation of Rites, shall be excluded with regard to the Solemn Mass by deacons of the first class and to privileged Sundays of the first class, and with regard to Masses

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said by deacons of the second class, as well as on Sundays, weekdays, vigils, and octaves that are privileged; and this shall be done under the condition that the Conventual or parochial Mass, corresponding to the Office of the day, is never omitted, where there is an obligation to celebrate it; and the rubrics shall be observed. And thus it responded. July 23, 1897. C. CARD. MAZZELLA, Prefect. PRAENESTIN. S. R. C. S. D. PANICI, Secretary. DOUBT. The question is asked whether members should proceed entirely with their heads uncovered in processions with the Most Holy Sacrament. After a petition was presented to the Sacred Congregation of Rites: Whether, in processions with the Most Holy Sacrament, the members of confraternities must always proceed entirely with their heads uncovered? The same Sacred Congregation, after consideration by the Secretary, and after hearing the opinion of the Liturgical Commission, decided to respond as follows: "Affirmatively, according to the terms..."

[*Latin ed. p. 154*]

154 From the Sacred Rituals of Rome, the Ceremonial of Bishops, and the Decrees of Iesi, January 23, 1700, paragraph 2; Mutina, September 22, 1837, paragraph 2; and Toledo, August 21, 1872, paragraph 1. And thus he wrote, on July 22, 1897. C. Cardinal Mazella, and P. Praenestin, of the Sacred Roman College. Prefect. To the Most Reverend Father Panici, of the Sacred Roman College, Secretary. Concerning the Beatification and Canonization of the venerable Servant of God, Benedict, of Podio Bonitio, a professed priest of the Order of the Minor Brethren of Saint Francis of the Observance.

ON THE DOUBT: Whether it is established that he possessed the Theological Virtues of Faith, Hope, and Charity, towards God and towards his neighbor, as well as the Cardinal Virtues of Prudence, Justice, Temperance, and Fortitude, and their associated qualities, in a heroic degree, in every circumstance and in effect, concerning that which is under consideration?

The name of Father Benedict, a venerable man, lives on in the annals of the Franciscan Family, and his name has been extended through the ages. He was born in Podio Bonitio, in Tuscany, near Florence, the day after the Ides of September, in the year 1611. He acquired piety within the walls of his home at an early age, and this piety, deeply instilled in his heart as a boy, developed and strengthened with age. Admitted to the Seraphic Order, he quickly attained such a reputation for virtue that he seemed to have grasped it not gradually and step by step, but with a swift and even a single breath. His charity towards God was such that it was fitting for one who spontaneously proclaimed the grace of God to human affairs. But, joined to these deeper affections for God, he embraced his neighbors with even greater zeal. Moved by the preaching of the Word of God, he considered nothing more important than to devote all his efforts to cultivating and turning hearts towards better things, and he spared no labor from which he might receive the fruits of piety. Understanding that the conduct of

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preachers is more effective than precepts, and that all are more likely to be influenced by example than by words, he strove so diligently that he might attract the hearts of those who observed him, even through the outward appearance of his body, to piety.

[*Latin ed. p. 155*]

From the Sacred Rituals, 155. He vehemently detested all pomp and imperious manners, and considered himself to have been born into a humble station, and to be in the greatest need of both human and divine help. Although he could have held a position of authority, he preferred to obey. He practiced such austerity that he seemed to live a heavenly life, completely separated from the contamination of the body. However, two things especially shone forth in this venerable man: extraordinary patience and a singular desire for self-torment. For the long and grievous illness with which he was afflicted, he not only patiently endured, but, as if he lacked an opportunity to practice patience, he refused remedies that might have improved his condition. He devoted the scant hours of sleep he allowed himself, either late at night, to the contemplation of heavenly things, or, if he lay down on a hard mattress, he would place thorns beneath the sheets to torment himself, and would cruelly inflict lashes upon his body with whips, bind a rough, barbed belt around his chest, and chain his thigh with a chain armed with spikes. In addition to these torments, he usually ate only one meal a day, consisting mostly of bread and vegetables, and he quenched his thirst mostly with cold water. Afflicted by these torments, he fell into a fever, and as the illness worsened, when he received a doctor, he was so filled with joy that he used these words: "A gradual canticle. I rejoiced at the things that were said to me: We shall go into the house of the Lord." Upon the death of Benedict, weeping and lamentations arose in the city; and not a few from neighboring towns came to view the body of the deceased. And when he was carried out, it was scarcely accomplished that a path was made through the large crowd, who showered him with flowers, so that he received more honor in death than in life. From the year 1669, when the man of God departed for heaven, the memory of his sanctity increased, and was even illustrated by miracles, so that a cause was presented to the Sacred Roman Congregation for the beatification of the blessed. However, from that time, due to the vicissitudes of events, the matter remained with this Sacred Congregation for a long time, until, after secular delays, the most desired goal was finally achieved. Therefore, after all other matters had been completed, an examination of his heroic virtues was carried out in three discussions. First, in the preparatory assembly, held on the fifth of December, 1883, at the home of the Most Reverend Cardinal Thomas Martinelli, shortly after he was taken from this life; second, in the preparatory assembly at the Vatican, on the nineteenth of the same month, in the year 1890; and finally, in the general assembly held there with

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His Holiness Pope XIII, on the tenth.

[*Latin ed. p. 156*]

156 From the Sacred Congregation of Rites, on the seventh day before the Kalends of July, in the year of Our Lord. In this, the final meeting, the Most Reverend Cardinal Caietan Aloisi Masella, Relator of the cause, proposed a question for discussion: "Does it pertain to the Theological Virtues of Faith, Hope, and Charity, both in God and in neighbor, as well as to the Cardinal Virtues of Prudence, Justice, Fortitude, and Temperance, and their associated virtues, that the Venerable Servant of God, Benedict of Podio Bonitio, practiced them heroically, in the case and with the effect under consideration?" The Most Holy Pope, after hearing the votes of the Most Reverend Fathers Cardinals and Consultors, delayed giving his judgment, so that, in this matter of such importance, light might be drawn from the prayers offered to the Father of Lights. But today, on this day when the solemnity of the most sweet Name of Mary is celebrated, the Most Holy Pope, having completed the sacred ceremony with the utmost devotion, ordered the Most Reverend Cardinal Camillus Mazzella, Bishop of Preneste, Prefect of the Sacred Congregation, to come to him, in place and instead of the aforementioned Cardinal Caietan Aloisi Masella, together with the Reverend Father Doctor John Baptist Lugari, Promoter of the Faith, and myself, the undersigned Secretary; and, with these present, he solemnly decreed: "That it pertains to the Theological Virtues of Faith, Hope, and Charity, both in God and in neighbor, as well as to the Cardinal Virtues of Prudence, Justice, Temperance, and Fortitude, and their associated virtues, that the Venerable Servant of God, Benedict of Podio Bonitio, practiced them heroically, in the case and with the effect under consideration." He ordered that this decree be made public and be recorded in the Acts of the Sacred Congregation of Rites, on the eve of the Ides of September, in the year 1897. CAMILLUS Card. MAZZELLA, S. B. C., Prefect. L. "S. DIOMEDES PANICI, S. R. C., Secretary."

[*Latin ed. p. 157*]

157 FROM THE HOLY CONGREGATION OF THE SACRED ROMAN INQUISITION – A DOUBT. It is asked whether the unction should be repeated in priests who have been ordained, the Bishop using the oil of Holy Chrism, instead of the oil of the Catechumens. The Master of Ceremonies of a certain Bishop, during the ordination of two priests, offered to the Bishop who was ordaining, the oil of Holy Chrism to be used in place of the oil of the Catechumens, and this entirely without the knowledge and intention of the Bishop. Upon learning of this, the authors who treat of sacred rites were consulted, and they all prescribed that the unction should be renewed. However, since this could not have been done without considerable astonishment and almost as a scandal, the aforementioned

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Master of Ceremonies appealed to the tribunal of the Most Holy Office, requesting that it judge whether the unction was truly to be repeated, or rather, whether one could safely be at peace of conscience and without anxiety without the repetition of said unction. And the Holy Congregation, on the fourth day of July, 1874, decided to respond: Negatively to the first part, affirmatively to the second. The ordination of a Deacon is to be repeated, to whom the Bishop who was ordaining approached, but did not touch the head of the one being ordained. A certain Italian Bishop humbly explained to the Holy Congregation that, about four years ago, when he wished to confer the order of deacon upon a certain excellent subdeacon of his diocese, during the ordination, he certainly placed his right hand, and indeed at a very short distance, over the head of the aforementioned subdeacon, but without actually touching the aforementioned head bodily. And since this non-essential defect was soon seen by the aforementioned Bishop and by other ecclesiastical men consulted by him, the same cleric was soon afterwards promoted to the priesthood, which cleric has now for three years exercised with commendable zeal. However, the memory of this defect now causes great anxiety to the aforementioned Bishop and raises doubts about the validity of the aforementioned diaconal ordination. Therefore, the aforementioned Reverend Lords and Very Reverend Fathers propose these two doubts with reverence:

[*Latin ed. p. 158*]

FROM THE SACRED CONGREGATION FOR THE INQUISITION, 158, I. In order to remedy the aforementioned defect in the ordination, must the entire ordination to the diaconate be repeated in that priest? And, to the extent that the answer is affirmative: II. Can this repetition of the ordination be performed under a condition by any Catholic Bishop, at any time of the year, even in a private chapel, as was the response in a certain rescript of the Sacred Congregation of the Holy Office dated January 28, 1835, in order to remedy a certain defect in the imposition of hands that had occurred in the ordination of a certain presbyter? The Sacred Congregation, having examined the case, on Thursday, January 20, 1875, responded: To both questions: affirmatively, with the consent of the Most Holy [Pope]. On the same day, the Most Holy Fathers confirmed this resolution, and deigned to grant all necessary and appropriate faculties.

FROM THE SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH, LETTERS from the Most Eminent Prefect concerning the doubt of whether a minister who is not a Catholic may be used in the celebration of a marriage between a Catholic and a Muslim woman.

Most Reverend and Reverend Lord, on March 12, 1897. By letters of January 3 of the current year, you inquire whether it is permissible for a Catholic man, legitimately married to a Muslim woman, to also celebrate a civil marriage before a Cadi through a procurator. Your Eminence is well

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aware that it is permissible, by necessity of civil law, to have a minister who is not a Catholic officiate at a marriage, so-called "civil marriage," provided that this minister acts as a political official, and not as one devoted to sacred rites. In the present case, as it appears from your exposition, there is no necessity of civil law, since the civil law considers marriages legitimately contracted before ministers of any religion to be valid; and furthermore, the Muslim party desires to have a Muslim minister officiate, in order that the marriage, with the intervention of that minister's religious authority, may be valid. Given these circumstances, since it is forbidden for a Catholic man to do this himself, nor is it permitted for him to do so through a procurator.

[*Latin ed. p. 159*]

FROM THE SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH, 159. Therefore, Your Eminence, when the opportunity arises, remind these Catholic individuals of the prescriptions of the Church and of the obligation to observe them inviolably. I, for my part, pray to God that He may grant you long life. Your Eminence's most devoted servant, M. Cardinal Ledochowski, Prefect. Archbishop Larissen, Secretary. To the Most Reverend Lord Aloysius Lasserre, Apostolic Vicar of Aden. FROM THE THIRD CONGREGATION OF THE INDEX. Thursday, the 9th of September, 1897. The Sacred Congregation of Eminent and Reverend Cardinals of the Holy Roman Church, by the Most Holy Lord our Pope Leo XIII and the Holy Apostolic See, having been appointed to oversee the Index of books of pernicious doctrine, and to determine their proscription, expurgation, or permission throughout the Christian Republic, and having met in the Apostolic Palace at the Vatican on the 9th of September, 1897, condemned and condemns, and orders that the following works be included in the Index of Prohibited Books, to be proscribed: Gaetano Negri. *Rumori mondani*. Milan, Ulrico Hoepli, 1894. — *Segni dei tempi. Profili e Bozzetti letterarii*. Milan, Ulrico Hoepli editor, 1897. — *Meditazioni vagabonde. Saggi critici*. Milan, Ulrico Hoepli editor, 1897. — *Histoire de France à l'usage des écoles primaires et des classes élémentaires des lycées et collèges* by Messrs. F. A. Aulard, professor at the Faculty of Letters in Paris, and A. Debidour, Dean of the Faculty of Letters in Nancy, Paris, 1895.

[*Latin ed. p. 160*]

160 FROM THE SACRED CONGREGATION OF THE INDEX: Therefore, no one, of whatever rank and condition, may dare to publish, or to read or retain, the aforementioned works, in whatever place and in whatever language, but rather they are bound to deliver them to the Ordinary of the place, or to Inquisitors of heretical depravity, under the penalties indicated in the Index of prohibited books. These matters, having been reported to the MOST HOLY POPE LEO XIII through me, the undersigned S.I.C. from

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the Secret Archives, His HOLINESS approved the Decree and ordered it to be promulgated. In witness whereof, etc. Given in Rome on the 10th of September, 1897. ANDREW CARDINAL STEINHUBER, PREFECT. FR. MARCOLINUS CICOGNANI O.P., from the Secret Archives. Place for the Seal. On the 13th of September, 1897. I, the undersigned, Magister Cursor, testify that the aforementioned Decree was affixed and published in the City. Vincent Benaglia, Magister Cursor.

[*Latin ed. p. 161*]

COMMENTARY 161: While those who knowingly read books of apostates and heretics, etc., defending heresy, and who also retain, print, and in every way defend these same books (Chapter II, Excommunication I, Class), are omitted in certain passages, as is also the case in other paragraphs; in some paragraphs, those who publish books are also condemned, as in § 12, while in others, they are not; therefore, it must be considered that the legislator, in each paragraph, has expressed what he intended, and has not expressed what he did not intend. However, the fact that the prohibition signifies the same thing and encompasses the same things in the new law as in the old law is demonstrated by the purpose of the law itself. For, harmful books are prohibited in order that their reading may not corrupt the faith and morals of men. But if the prohibition in the new law excluded only one form of reading, and other harmful books could be printed, published, retained, or lent, then the way would be opened for the reading of many, and indeed the vast majority, of such books, and the broad law would be rendered completely, or almost, useless. It is not necessary that the legislator express in each paragraph of the Decree everything that he intends in general; but it is sufficient if he manifests his intention and will in some passage. However, from the words of Leo XIII, it is clear that he understood the prohibition in the same way, as is evident from § 12: "It is forbidden to publish, read, and retain, etc." From § 13, which condemns books that recount new apparitions, if they have been published without legitimate authority; therefore, the condemnation includes publication. From § 14, which likewise prohibits books that declare duels, suicide, or divorce to be permissible; therefore, this prohibition also includes other things forbidden above, since these books are prohibited in the same way. But it is especially clear from § 47, which, by a special mode of excommunication reserved to the Holy See, condemns those who knowingly read, without the authority of the Apostolic See, books of apostates and heretics, etc., defending heresy, and who also retain, print, and in every way defend these same books. Furthermore, this paragraph has a clear connection to § 2 of Title I. But if, in this place, the prohibition did not include those who retain, print, or defend, how could these people be subject to excommunication in § 47? Since, by the law, they would be excluded from being condemned. Moreover, it could be believed that the Pope, by § 2 of

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Title I, had abrogated Chapter II of the Apostolic Constitution, by which those who retain, print, and in every way defend these same books are excommunicated; but this is contradicted by the Acts, Volume XXX, page CCCLI, line 11.

[*Latin ed. p. 162*]

162 COMMENTARY: But others have asserted and confirmed [this] in § 47; which is a statement that is abhorrent to say. Furthermore, the objections are easily refuted. Indeed, the Supreme Pontiff has softened the rules, while nevertheless preserving the substance of those rules, because He has removed many things that were sanctioned in the old law, and He has permitted many things that were not permitted, as will be evident from the comparison. But if in the new law, a prohibition excluded only one passage, and did not preserve the substance of the ancient rules, and thus almost entirely abolished them, then the situation would be different. Regarding the other points, the answer is clear from what has been said. After these things, it is not merely holding a forbidden book before one's eyes, or uttering its words and sentences, either silently in one's mind, or aloud with one's mouth, but also comprehending what is being read. Otherwise, anyone who, ignorant of the Latin language, or other languages in which forbidden books are written, mechanically, so to speak, read those books, would incur excommunication; which is false: because pernicious books are proscribed in order that they may not corrupt the faith and morals of men; but those who read nothing understand are not exposed to this danger. And since we are dealing with odious matters, it is a probable opinion that those who hear the reading of forbidden books are not excommunicated; for these people are not reading. But the legislator has not imposed penalties on those who hear. However, since these people expose themselves to the grave danger of receiving a serious perversion, they also sin gravely. To print a book containing forbidden material is to commit an offense; and those who contribute to the printing process incur the prescribed penalties, such as the publisher, the printer, and the workers, unless they suffer a serious loss because they refused to participate. We do not consider the author to be subject to the same penalties, since he incurs them as the principal actor, that is, as the heretic and the originator or propagator of errors. Furthermore, human laws do not punish a man twice for the same offense; especially not with excommunication, by which we are deprived of communion and fellowship with the Church; and for this purpose, it is sufficient to have incurred the penalty once. And there are no examples lacking to confirm this. Indeed, among those who threaten, mutilate, strike, seize, detain, or pursue with hostility the Cardinals, Patriarchs, Bishops, etc., of the Holy Roman Church, as stated in Chapter V of the Apostolic Constitution, they incur excommunication in a special manner, reserved to the Holy Father. However, a powerful and unjust person could commit

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all of these actions against the same ecclesiastical person, and in the same continuous period of time; so that a Cardinal...

[*Latin ed. p. 163*]

COMMENTARY 163: First, it attracts, then it captures, it retains what it has captured, it inflates it, it corrupts it, it destroys it. Shall we say that it incurs as many excommunications as it commits prohibited actions? Finally, the author does not fall under the concept of the printer. To publish is to bring a prohibited work to the knowledge of men, to expose it for sale, or to spread it in some other way to the public. To retain is the same as keeping a prohibited book with oneself. To give is to bring about that prohibited books reach the hands of others, under any title, e.g., by donation, loan, etc. To defend should not be understood as meaning to prevent a prohibited book from being destroyed, or to deliver it to the authorities of the Church; for this is rather concluded by the concept of retention; but rather to praise the pernicious doctrine and to support it with arguments. Indeed, when we speak of doctrine, the word "defend" should be preferred, as is evident from numerous examples, which we could cite, but especially from the Constitution *Sollicita* of Benedict XIV, paragraph X. It must also be inquired: whether books are understood in the new law in the same sense as in the old law; that is, for volumes consisting of eight, new, or ten sheets. (Cf. Schmalzgrueber, Lib. V., Title VII, n. 55, and other commentators on the canons of the Holy Council). And we are led to such a doubt, as we see in the Constitution *Officiorum Proscripta*, chapter VIII, *Diaria, Folia et libellos periodicos* [Diaries, pamphlets, and periodicals]. However, there are more reasons to believe that this distinction must be maintained also in the new law. And I: That there is no trace in the new law of a changed meaning, but rather the legislator speaks of books according to the common sense of the word, in which that word is commonly used. 2°. Because he has transferred some paragraphs, in which the word "books" is contained, from the old law to the new, without adding anything, by which we are warned that the meaning of that word is also extended to pamphlets, leaflets, etc. 3°. Because he clearly distinguishes between the writings of both kinds; e.g., § 17 lists Books of Indulgences, summaries, pamphlets, leaflets; § 20 lists books or pamphlets of prayers; § 29 lists books and other writings. From this, it must be inferred that Chapter VIII, Title I, in which diaries, pamphlets, and periodicals are prohibited, constitutes a special law, by which it is possible to counteract the increasing harm caused by them. For it would have been quite unnecessary to expressly establish such a chapter, if the legislator had included diaries, pamphlets, and periodicals under the name of "books." And therefore, this too, is to

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be taken seriously.

[*Latin ed. p. 164*]

164. It is the judgment of the more pious that he considered that the books under consideration were not at all included in the Index.

39. This paragraph, established from the first Canon of the Council of Trent, is expressed in almost the same words. By it, it is decreed that the books which were condemned either by the Supreme Pontiffs, or by ecumenical Councils before the year 1600, are to be considered condemned, even though they are not listed in the new Index. Therefore, the Legislator speaks of books proscribed before the year 1600, because the harmful books of subsequent ages were included in the Index of Prohibited Books, and were designated by the Canons of Trent, and other decrees preceding the Index. However, the Legislator himself lists some of these books in his Constitution. (Cf. notes 9, 10).

What then, about the books which were condemned before the aforementioned year, either in particular Councils, or by Bishops? Indeed, such a prohibition should still be considered to be in force. For the Legislator did not introduce any derogation in the particular laws of places, but was only concerned to renew the prohibition of those books which were proscribed by a general decree, either by the Roman Pontiffs, or by Synods. Therefore, those prohibitions, as they affect dioceses and particular places, should still be considered to be in force, and to bind the respective subjects; unless they are considered to have been abrogated by a contrary custom, in the absence of the Bishops and their silence. This is all the more true, because in the old law, we know of no decree issued by the Roman Pontiffs, by which Bishops are deprived of the power to proscribe harmful books; but in the new law, the Pontiff preserves the full power, as § 26 states, that no one, although granted permission by the Sacred Congregation to read harmful books, can read books proscribed by the Bishops, unless a special permission has been granted. Furthermore, no mandate of the Bishops should be considered revoked, unless it is certainly established that it has been revoked; but in the present case, this is not found to be the case. The Legislator intends that the books condemned before the year 1600 should be considered condemned in the same way as they were condemned before. Moreover, condemnation seems to imply two things: the censure, or judgment passed concerning the heterodoxy of the proscribed book, and the penalties imposed on those who read, print, etc. Therefore, does the Legislator intend that the aforementioned books should be condemned with the same censure, or judgment; and also with the same penalties with which they were condemned?

[*Latin ed. p. 165*]

COMMENTARY 165. It seems that this should be denied. For, through

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the new law expressly stated in the Constitution *Officiorum*, no derogation was made to the moderation granted by Pope Pius IX in the Apostolic Constitution. In this [new law], it is decreed that those censures, whether of excommunication, suspension, or interdict, which, up to now, have been imposed by way of a general decree, shall have force only if they are those which we insert in this Constitution, and in the manner in which we insert them. Furthermore, when a law or decree is abrogated, an express mention is required, either of the law in its entirety, or of some part thereof, especially if it is clear that the legislator intended to preserve it in other respects; and this is certainly the case in the present instance; for Leo XIII has not expressed anywhere a will to derogate from any part of the Constitution granted by Pope Pius IX, but rather, in some respects, he conforms to it, e.g., § 2, title I, and §§ 47 and 48, title 2. Consequently, it follows that, since the censures imposed on those who read, print, etc., prohibited books are imposed by a general decree, it is certainly the case that these have been abrogated, and that only those censures retain their force which are renewed and inserted in the aforementioned Constitution of Pope Pius IX, which the new legislator intended to maintain in its full force. Therefore, in those words: "let them be condemned in the same manner as they were formerly condemned," the word "condemned" signifies a censure, or judgment, by which propositions or books were condemned as proscribed, and the condemnation itself signifies. We take the example of the condemnation of the books of John Hus, which the Council of Constance (in the year 1414) proscribed in any language, as containing doctrines reasonably suspected of heresy; and it commanded that the local ordinaries should prohibit them under the threat of excommunication, with the addition of the penalty and support of heresy; that is, it decreed that those who transgressed the general decree against the books of John Hus should be treated as supporters of heresy, and that they should be punished with other penalties, either by the local ordinaries themselves, or by the Inquisitors of heretical depravity. Cf. note 9. Therefore, the doctrine of John Hus was condemned as being reasonably suspected of heresy; therefore, and even now, it remains reasonably suspected of heresy. Since, however, the Fathers of Constance entrusted the local ordinaries with the task of adding penalties, if necessary, and of declaring the Hussite books as those of supporters of heresy; hence, in them...

[*Latin ed. p. 166*]

166 COMMENTARY. In those dioceses in which such decrees were proposed, this law remains in force, unless it has lapsed into disuse; in others, in which such decrees were not published, it does not remain in force; but readers of the books of John Huss are to be considered only as suspected of heresy, which is a qualification established by the Fathers of Coutances. To this is appended another question. In the councils held before the year

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1600, the books of heretics were indeed condemned and entirely prohibited, but no ecclesiastical penalty of excommunication, suspension, etc., was ever added; on this matter, some examples may be read in note 9. It is certain, however, from Chapter II of the Apostolic Constitution, that all and each who knowingly read, without the authority of the Apostolic See, the books of those same Apostates and heretics, and also the books of any author specifically prohibited by Apostolic letters, and who retain, print, and in any way defend these same books, are to be excommunicated, a special excommunication being reserved to the Roman Pontiff. And no distinction is to be made between books prohibited before the year 1600 and those placed on the Index after that year. Therefore, what is the case? Do those who read the books of heretics who were condemned before the year 1600 without any added ecclesiastical censure incur the excommunication of the Second Chapter, which Leo XIII confirmed in § 47 of his Constitution? And the very words raise a doubt: they are to be considered as condemned in the same way as they were formerly condemned. Since they were condemned without any added ecclesiastical censure, it does not seem that those who merely read them incur this censure; unless, indeed, they were not to be considered as condemned in the same way as they were formerly condemned. Indeed, it is true. For in the Apostolic Constitution, the censures were not increased, but were limited to those only which Pope Pius IX inserted in his Constitution from the ancient canons, and in the manner in which he inserted them. It cannot be inferred from this that new censures were established to be added to those which were not laid down by the ancients; unless, at the very least, some were multiplied from that chapter. Therefore, it follows that if anyone merely reads the books of ancient heretics who were condemned without any added censure, they do not incur excommunication, although they may incur other penalties, which are not of the nature of censure, e.g., penalties, provided that these have not lapsed into disuse; the reason for this is...

[*Latin ed. p. 167*]

COMMENTARY 167: It is evident; for those books remain condemned under the new law just as they were condemned in the past; and their proscription is to be determined not from a new law, but from the ancient law. We do not consider it untrue that even Pope Pius IX, in Chapters I and II of his Constitution, did not speak about the ancient heretics, but about those who troubled the Church of Christ in the 16th century and subsequent centuries. This is clear from the words of Chapter I, and those who believe in them, and their successors, supporters, and generally any of their defenders. For of many heresies invented, or of many ancient heresies, scarcely a name survives in our age; most heretics have fallen into contempt; so that even the heterodox and unbelievers now blush to mention the names of Valentinus, Arius, Macedonius, and others, as some recount, although

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they sometimes discover that these very errors are being revived under a different name. For this reason, the alleged words can scarcely, or not at all, be applied to them; that is to say, for example, those who believe in the heretics cannot be designated as those who favor the condemned teachings of Valentinus, Arius, and so on, and so it must be said of the others. But sometimes it happens that the writings of the ancient heretics are found not only in separate volumes, but also in the most extensive collections; and the majority of the authors contained in them are either plainly Catholic, or of harmless reading. An example is the Greek-Latin Patrology edited by Migne, which contains many heretical or erroneous writings; for example, those of Tertullian (1), Origen (2), Eusebius (3). (1) P. Lat. Tom. I, II, in the aforementioned Council of Rome, year 494, under the decree of Gelasius, the censure of Tertullian is: "Opuscula Tertulliani apocrypha," in which the word "apocrypha" does not mean "supposititious," but indicates books "which the Catholic and Apostolic Roman Church does not recite in any way." P. L. Tom. LIX. 161. (2) P. G. XI-XVII. The censure of Origen is: "Also, some of Origen's works, which the Blessed Jerome does not reject, we deem worthy of reading. But all the rest, along with their author, we say should be avoided." Ibid. (3) P. G. XIX. XXIV. Regarding Eusebius of Caesarea, the first part of the censure of Pope Gelasius is: "Also, the chronicles of Eusebius of Caesarea, and the books of his ecclesiastical history: although in the first book of his narrative he was lukewarm, and later, in praising and excusing the schismatic Origen, he wrote one book: nevertheless, because of the singular knowledge of things which pertain to instruction, we do not say that they should be avoided." And this is in decree § 4. However, in § 5 we read: "The history of Eusebius Pamphili, apocrypha!" Ibid. 163.

[*Latin ed. p. 168*]

168 COMMENTARY of Lactantius (1), of Peter Abailard (2), and others; then a Collection of Councils, in whose acts many similar letters or testimonies of heretics are also recorded; for example, in the Council of Ephesus (431), the writings of Nestorius; in the Council of Chalcedon (451), certain writings of Eutyches, and other documents of the Eutychians; in the Fifth Council (553), many excerpts from the books of Theodore of Mopsuestia, the Bishop, containing heretical testimonies, and many passages from the writings of Theodoret of Cyrrhus, the Bishop, against the doctrine of St. Cyril, and also the letter of Ibas of Edessa to Marim, a Persian monk, and certain other letters of Nestorius; in the Sixth Council (680), many letters of the Monothelites; and so we pass over the other synods in silence. There are also other collections of writings, in which are contained authors whose works are prohibited: in the collection of Greek classical authors, who wrote in Italy, either in verse or in prose, are included Nicholas Machiavelli (Index Trid.), Guicciardini (Storia d'Italia, Decree of February 4, 1627), Peter Giannone (Storia civile del Regno di Napoli, Decree of July 1,

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1723), Charles Botta (Storia d'Italia continuata da quella del Guicciardini sino al 1789, Decree of August 5, 1833), Peter Colletta (Storia del Reame di Napoli dal 1734 al 1825, Decree of July 7, 1835); and others, whose reading is forbidden. But it is generally forbidden to read the books and writings of wicked authors, wherever they may be found. For this reason, these collections may be considered prohibited in general. However, we believe that in such collections, a prudent distinction must be employed, and that not all should be judged by the same standard. The collection of the writings of the Fathers and ecclesiastical authors published by Migne contains the writings of heretics, sometimes because the Fathers refuted them, and sometimes these writings are inserted among the very works of the Fathers; for example, the opinions of Celsus the philosopher are found in the books of Origen's "Against Celsus" (P.G. XI.); or the writings of Julian the Apostate in the ten books written by St. Cyril of Alexandria "Against Julian" (P.G. LXXVI); or because, although pernicious, they contain many documents of ecclesiastical tradition. In this collection...

(1) P. L. VI-VII. The censure of Lactantius is: "The works of Lactantius (or Firmianus) are 'apocryphal'." Ibid. This author contains many errors, as noted by Natalis Alexander in "H. E." of the 4th century.

(2) P. L. Volume CLXXVIII.

[*Latin ed. p. 169*]

COMMENTARY 169. Moreover, the collections of documents from the Councils, greatly augmented by the Most Reverend Dominic Mansi, Archbishop of Lugo, contain letters of heretics, and other writings, which are read and inserted within the very sessions and acts of the Councils, and constitute an essential part of the proceedings, from which the opinions and judgments of the Fathers subsequently emerge. Within these very volumes are found the best refutations, or the opinions of Bishops, by which erroneous writings are refuted. For this reason, such writings included in these two collections do not introduce that spiritual ruin which the Church seeks to avoid when forbidding the reading of harmful books; rather, they are very useful for revealing and understanding both historical and dogmatic truth. To this argument is added the fact that, in these collections, especially those of the Councils, not the complete works of heretics are cited, but rather letters, or excerpts taken from books, which do not constitute a complete work, and which, if removed, could not fail to corrupt the authentic acts of the Councils, or obscure their meaning. Therefore, it cannot be said that the books, or under the name of books, those letters and excerpts are included, which are subject to the new law of Leo XIII. Furthermore, the works of the Fathers and the acts of the Councils, which are found in the aforementioned collections, have always been in use among Catholics, especially among men of the Church, and no complaint has ever been raised against the violation of this prohibition, either by the Roman Pontiffs, or by

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other Bishops of the Catholic world. Therefore, the most excellent authors did not consider it contrary to the mind of the Church to read the works of Tertullian, Origen, and Eusebius. The Cardinals of Lugo and of Petra affirmed this in clear terms; and the former wrote, in *De Virtute Fidei*, Disp. 21, Sect. II, n. 29: "In general, these works are permitted, both because their errors are already known, and because no one cares about them, and also because it is necessary that the knowledge of their errors be preserved, so that it may be clear why they were condemned, and because many other things pertaining to the morals of the ancient Church, and true dogmas, are contained in them, which cannot be ascertained from elsewhere. This reasoning does not apply to the writings of the new heretics, in which, although some useful things may be found, the same things are better and more safely learned from Catholic writers, and since their heresies have not yet been eradicated, there is greater danger that those who read these books may be led astray." Another [Cardinal] wrote: "The works of Tertullian and Origen, although..."

[*Latin ed. p. 170*]

170 COMMENTARY: « Although some of these collections may contain certain heresies, because they contain excellent and good things, their reading is generally permitted. Thus, the works of Eusebius of Caesarea, Novatian, and others, have been preserved by the ancient Fathers because of some good contained within them, and have been read repeatedly. » *Commentary on the Apostolic Constitutions, Book 1, page 134.* For this reason, we can apply to these collections the words that Saint Jerome wrote about Lactantius' *Institutions* in Epistle 84 to Pammachius and Oceanus: « Lactantius in his books, and especially in his letters to Demetrius, entirely denies the substance of the Holy Spirit, and, following the Jewish error, says that it is either referred to the Father or to the Son, and the sanctification of both persons is demonstrated under their names. Who can forbid me to read the books of his *Institutions*, in which he wrote so strongly against the pagans, because this opinion is to be detested? » *P.L., Vol. XXII, 748.* It must be understood that the same tolerance applies to these collections even now. However, with regard to other collections of profane writers, when the complete works of the authors are included in them, it is to be considered that the entire collection remains prohibited, unless it is provided with corrections or refutations. If, however, the works are sold separately, in which case the reason for the collection ceases to exist, the books that were proscribed remain proscribed, but the others in which nothing worthy of reproach is found, do not. Nevertheless, the books that are excepted from the prohibition are those that are permitted by these general decrees; indeed, the Roman Pontiff provides a criterion for recognizing them, namely, that they are those that are permitted by these general decrees. It must be noted that, in the general decrees of the

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New Law, books by non-Catholics treating of religion are permitted, if it is established that they contain nothing contrary to the Catholic faith (§ 30); then, those that, although not explicitly treating of religion, nevertheless touch upon truths of the faith, certainly not in a Catholic sense (§ 4); then, others, as is evident from the comparison between the old and the new law. For this reason, all books published before the year 1600, which were proscribed either by the ecumenical Councils or by the rulers of the Roman See, and which fall under the aforementioned paragraphs, are henceforth not to be considered prohibited. Hence, as an example, the *Ecclesiastical History* of Eusebius of Caesarea, and the books of others, in which

[*Latin ed. p. 171*]

COMMENTARY 171. Only in passing are dogmas of the faith touched upon, and for this very reason, they are exempted from the prohibition in the New Law. As for the books that were placed on the Index after the year 1600, if they are omitted in the New Index, they are to be considered exempt from the prohibition, unless they had not been omitted. From this, it also becomes clear what must be said in response to the following question, which we have proposed to resolve: Are books that are prohibited by the rules of the old Indexes to be considered permitted, unless they fall under the prescription of the new rules? Answer: They are to be considered permitted. Since Leo XIII completely abrogated the old law, and wished for the rules established by himself to have force, the books that were included under the prohibition of the old rules are, from now on, not subject to any prohibition; not under the old, because all the laws have been abrogated, nor under the new, because, by the hypothesis, they do not fall under the prescription of the new law.

40. This second paragraph clearly indicates a connection to Chapter II, section 1, of the Apostolic Constitution concerning the moderation [of books]: all and each who, knowingly, read without the authority of the Apostolic See, books that promote the heresy of apostates and heretics; as well as those books of any author that have been specifically prohibited by Apostolic letters, and who retain, print, or in any way defend those same books. However, there are some differences; for in the Constitution concerning the moderation, the books of schismatics are lacking, and the books of those who in any way undermine the foundations of religion; in the new law, the books specifically prohibited by Apostolic letters are lacking. Nevertheless, there is no difference in reality; since in the new law, any books are condemned that promote schism or heresy, or that in any way undermine the very foundations of religion; and the reason and cause for this condemnation is indicated.

Furthermore, apostates are those who have departed from the Christian faith, and have completely rejected it; for apostasy is defined as a total defect or departure from the Christian faith received through Baptism. On

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the contrary, heresy is a persistent error of understanding against some dogma of the faith in one who has received the faith; therefore, heretics are those who stubbornly deny some article of the faith; for this reason, their departure from the faith is partial, not total.

[*Latin ed. p. 172*]

172 COMMENTARY: Schism is a voluntary separation from the unity of the Church; consequently, schismatics are properly called those who, of their own accord and with the intention, separate themselves from the unity of the Church. Since, however, unity in the Church cannot be conceived without due submission to the Roman Pontiff, schismatics are also those who refuse to be subject to the Roman Pontiff. Therefore, St. Thomas writes: "The unity of the Church is considered in two ways, namely, in the connection of the members of the Church 'to one another, or by communication,' and again, in the order of all the members of the Church 'to one Head'; and therefore, schismatics are called those who refuse to be subject to the Supreme Pontiff, and those who refuse to communicate with those subject to him" (2-2, Q. 39, art. 1). Not only these, but also the books of any writers, e.g., Catholics, unbelievers, are prohibited, if they either promote heresy or schism, or if they in any way undermine the foundations of religion. Therefore, unless such individuals are found to be tainted with such wickedness, they are not subject to prohibition; which, moreover, is also evident from the following paragraph. To promote heresy, and to say the same of schism, is to defend and uphold it by means of arguments and reasons of any kind. "A book promotes heresy," says St. Alphonsus, "which intends to establish and defend heresy with arguments and to the best of its ability. On the contrary, a book does not promote heresy, in which some heresy is mentioned 'in passing and with a few words, as if it were another matter.'" However, for a book to be said to promote heresy, "it is not necessary that the subject matter of the book be, in itself, religious, but it is sufficient that it is directed towards proving some heresy, which it attempts to demonstrate and defend with effort and by design." VII, 287. Moreover, this is also evident from the decree issued by the Sacred Congregation of the Index on April 27, 1880. For, the General Minister of the Passionist Fathers had inquired, among other things: "Whether books, properly so called, of any author, or periodicals containing heresy, are subject to the Index, as renewed and confirmed by the Most Holy Pope Pius IX..." The Sacred Congregation of the Index responded negatively to this second question (Acta S. Sedis, XX, 368). Therefore, if books do not promote, but only contain some heretical or schismatic proposition, they are not prohibited, and consequently, no censure is imposed upon them. But not only these, but also (and indeed, much more) books that in any way

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undermine the foundations of religion are subject to prohibition.

[*Latin ed. p. 173*]

COMMENTARY 173. These are books written, for the most part, by unbelievers; that is, by those who deny either the existence of God, or the divinity of Christ, or the very grounds for believing. They either do not consider the divine Scriptures to be divinely inspired, or they distort them, or they present falsehoods. Among these are: Ernest Renan, *Vie de Jésus*; the same author's, *Les Apotres*; Dupuis, *Origine de tous les cultes*, etc.; and, in general, all the books of Rationalists and Positivists; for since these deny the supernatural, and maintain that only that which is subject to experience should be admitted, they necessarily lead to the undermining of the foundations of any revealed religion. The same can be said of Deists and Naturalists. The legislator decrees that these books are to be proscribed because they in every way undermine the foundations of religion; that is, by arguments drawn from any source, whether from history, civil or religious, from philosophy, or from the natural sciences, such as physics, astronomy, or geology, or from other arguments sought out by a corrupt mind; and finally, by turning the very dogmas of religion into ridicule. This is the greatest argument of Voltaire; for ridicule is a kind of argument by which the sacred is attacked, and it is shown to be deserving not of the greatest reverence and honor, but of laughter. But does this not also apply to those who attempt to undermine the foundations of religion through impious images? Indeed, in this place, we do not think so, since we are speaking of books. Furthermore, a double hypothesis is proposed regarding images. Either they are collected into a single volume; and in this hypothesis, the collection will be a collection of impious images, not a book; or they are inserted throughout the text; and since it is clear that the authors insert them in order to place them before the eyes and in the view of those who are reading about the subject being discussed in the text, it is the same crime, and therefore the same maximum penalty of excommunication, which is reserved in a special manner to the Roman Pontiff, as is mentioned in § 47, and which neither should nor can be imposed.

41. Those who are called and are *non-Catholics* are those who either do not profess the Catholic faith, or who are outside the Catholic Church; under this term are included all heretics and schismatics, but not properly those who are unbelievers and apostates, since the latter do not admit of any supernatural faith, and do not adhere to any Church which professes the faith of Christ. A *non-Catholic*, in the strict sense, is one who does not belong to the Catholic Church, and who does not indicate, either by his own will, that he ought not to belong to the Church of Christ.

[*Latin ed. p. 174*]

174 COMMENTARY: For this is evident from the very paragraph itself;

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for therein, books of non-Catholics which treat explicitly of religion are permitted, provided that nothing contrary to the Catholic faith is contained within them; but it is impossible to expect this from an unbeliever or apostate. These individuals, as I may say, constitute something that transcends all known categories or species; and we believe that they themselves do not know what they are, or what they intend, or what they aim for; for it is impossible for a man to believe nothing. Therefore, both from the obvious and natural meaning of the word, and from the mind of the Legislator, it is clear that the term "non-Catholic" should not be extended to those who do not belong to any Christian Church, but only to those who do not belong to the Catholic Church; consequently, unbelievers, apostates properly so called, and pagans, do not fall under such a designation, since these belong to no Church of Christ, and are not non-Catholics. In the ancient law, all books that explicitly treat of religion, whether they contain heresy or false doctrines, were absolutely condemned, even if written by heretics, by virtue of the second Canon of the Council of Trent, which states: "But the books of other heretics, which indeed treat explicitly of religion, are altogether condemned"; in this passage, nothing is indicated as to whether these books contain heresy or not. Furthermore, to treat explicitly of religion is to discuss it openly, to share arguments and reasons, and, as is fitting, to defend it. Thus, both Catholics and heretics defend their position explicitly. Therefore, if books of non-Catholics that treat explicitly of religion contain heresy, false doctrines, and other errors condemned by the Church, they must be condemned; but if they contain nothing contrary to the dogmas defined by the Church, they are permitted. Thus, the ancient prohibition falls away, either out of hatred of the author, or out of suspicion of a false doctrine. However, in order that these books may be read without harm, it must be certain that they contain nothing contrary to the Catholic faith. Therefore, two things must be known beforehand: that the book was written by a non-Catholic, and that it is free from any error contrary to the Catholic faith. Therefore, in order that it may be read, at least after hearing from trustworthy people, and after considering the author's known integrity and the knowledge of those worthy of faith, the reader must be more certain of such immunity from any error. But what if, having accepted that such a book is free from errors...

[*Latin ed. p. 175*]

COMMENTARY 175: Will the reader discover, during the course of reading, the prohibited passages and heretical statements contained in the book? Indeed, he is not subject to any penalty, provided he has acted in good faith and in accordance with the law. However, he must cease reading, for if he continues, he will be acting against the law; and he will be subject to penalties, either imposed by the Holy Father or to be inflicted by the Bishops, according to the manner in which errors are either openly

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defended or merely mentioned. Nevertheless, this opinion may seem to differ from the truth to some. For it is stated in the following paragraph that, if books by the same authors only incidentally touch upon matters of faith, they are not prohibited by ecclesiastical law, unless they have been specifically condemned by a decree, but the errors which a reader, acting in good faith, as mentioned above, discovers during the course of reading, are certainly to be considered as incidentally touching upon matters of faith; unless, of course, prudent and faithful men have turned away from them. Therefore, they are not to be considered prohibited before the judgment of the Church; consequently, those who read them, even though after discovering the error they transgress the law of the Church, are not subject to any penalty, at least not a severe one, if such a penalty is not warranted by the fault committed. But it must be noted that the case is quite different; for in the third paragraph, we are speaking of books written by heretics that explicitly treat of religion; in the fourth paragraph, however, we are speaking of books by the same authors that do not explicitly treat of religion, but only incidentally touch upon matters of faith. But in the old law, books on religion explicitly written by heretics were simply prohibited, regardless of whether they contained errors repugnant to the faith or not. This prohibition has been maintained by the new legislator, and is limited only to the case in which the books written by heretics contain nothing contrary to the Catholic faith; but when, as in the case under consideration, errors contrary to the faith are found in them, they remain prohibited under the new law, due to the explicit will of the legislator. On the contrary, the law was even milder in the old law with regard to books written by heretics, whether they explicitly treated of religion or not; for, according to the Second Canon of the Council of Trent, they were permitted if examined and approved by Catholic theologians; indeed, even versions of ecclesiastical writings made by heretics were permitted, provided that they contained nothing contrary to the Catholic faith.

[*Latin ed. p. 176*]

176 COMMENTARY: Those who do not treat of religion are examined and approved by Catholic theologians, by order of Bishops and Inquisitors. Rule II. Translations of writings, even ecclesiastical ones, which have hitherto been published by condemned authors, are permitted, provided that they contain nothing contrary to sound doctrine. Rule III. Therefore, our legislator considered it fitting to apply this same principle, and he is to be considered as having expressed what he intended. It could be added, not without benefit, that in a book which explicitly treats of religion, it is most difficult, if not impossible, to avoid inserting errors contrary to the faith, even as a mere aside; for there are either principles, or corollaries, which are related to the theses defended, and which either undermine them, or

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demonstrate them; if, for example, an acatholic were to speak of the infallibility of the Roman Pontiff, and were to gather together all the arguments presented by Catholic writers, and to connect them, and then to affirm that they are either in no way, or only to a small extent, demonstrative, and that the infallibility of the Roman Pontiff does not follow, (and the same could be said about any other dogma of the Church), everyone understands that such propositions undermine that Catholic dogma, and are not to be considered as mere asides. On the contrary, in the books discussed in § 4, since they do not explicitly treat of religion, it is permissible for authors to include propositions, even as a mere aside, which, although they may not have a strict connection with the context, and which do not cause that harm to the reader which is to be feared from books which explicitly treat of religion, in which error can scarcely be separated from the context. Hence, the reasoning collapses, since the case discussed in each paragraph is entirely different, and does not affect books of the same substance.

42. The first question that arises must be clarified: who are those same authors whose books do not explicitly treat of religion? For in the preceding paragraphs, apostates, heretics, schismatics, and acatholics are mentioned; it is said that apostates, unbelievers, Jews, and pagans are not included under the name of acatholics. Therefore, it must undoubtedly be held that the term "these authors" refers to acatholics; since the cited words are relative, they certainly refer to the nearest antecedent; the nearest antecedent is "acatholics"; therefore, even in this case,

[*Latin ed. p. 177*]

COMMENTARY 177, fourth paragraph: The incredulous, apostates, pagans, Jews, and those who are not Catholic, in the strict sense of the word, are to be excluded. After these: In order that these books not be considered forbidden by ecclesiastical law, they should not treat of religion explicitly, but rather touch upon the truths of the faith, that is, either to affirm them, or to inquire into them, or even to deny them, but only incidentally and in passing, not by design or explicitly; for otherwise, those words cannot be understood in a good sense, since if these books contained nothing worthy of censure, it would not be understood why the Church's judgment should be awaited; indeed, why they could be forbidden would not be understood, especially since, according to the third paragraph of the book *De Acatholicos*, those who treat of religion explicitly are not forbidden, provided that nothing contrary to the Catholic faith is written in them; therefore, all the more, the books mentioned in this fourth paragraph should not be forbidden, since they do not treat of religion explicitly, and in the assumed hypothesis, those words should be understood in a good sense. Therefore, these books are not to be considered forbidden by ecclesiastical law. But what is this ecclesiastical law? It is certainly nothing other than a new law enacted and promulgated by Leo XIII. For since he has completely abol-

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ished the old law concerning books prohibited for reading, and all its parts, except for the Constitution *Sollicita* of Benedict XIV, there remains no law by which those books could be considered forbidden in the meantime, except for a new one. However, one might ask: Did the Roman Pontiff consider that these books could be forbidden by natural or divine law, even though they are not affected by the prohibition of ecclesiastical law? And, if we are not mistaken, it seems that this must be considered. For the Legislator excludes ecclesiastical law; therefore, they could be considered forbidden by some other law; but if natural and divine laws are excluded, it is not understood why the Legislator would use that limitation, since they would remain forbidden by some other law; and especially since, later, he adds that they can also be forbidden by ecclesiastical law. But some may object: What! Are we to suppose that the Roman Pontiff would allow books that are considered forbidden by natural or divine law? To which we must respond that such a provision of a new law is not equivalent to permission, which is confused with the faculty of reading harmful books, but should be considered as a *toleratio*.

[*Latin ed. p. 178*]

178 COMMENTARY: This is a certain leniency, which the Church also employs in other, more serious matters; and this is evident from the fact that the legislator meanwhile warns the faithful to consider whether those books might be prohibited by another law, and he instills fear that they might even be prohibited by a special decree of the Church. Therefore, from this granted tolerance, the faithful will be able to read those books until the Holy Congregation of the Index, or the Holy Office, renders its judgment; and in the future, they will faithfully obey the Church's decree. However, this leniency should not be attributed to the Church or the Roman Pontiff as a fault. For, since the books do not explicitly treat of religion, and errors are found in them only incidentally, these are not the evils that are to be feared, those evils which are conceived of through malice in the writings; they can also be attributed to the author's ignorance; and since they lack any demonstration, they are easily dismissed, for what is asserted gratuitously is also denied gratuitously. Meanwhile, the Roman Pontiff consults the consciences of many, who would have read those books without proper discernment; he then, with mature judgment, decides whether good or greater evils would follow from the prohibition, and whether, given the circumstances of the times, it is possible to take those books from the hands of the faithful; the Church judges it better to tolerate some evil, than either to lead the souls of the faithful to certain ruin through an unconsidered judgment, or to deprive them of much good. Therefore, we see that the Church has tolerated, and still tolerates, the reading of ancient writers, even though they contain errors that are repugnant to the faith, also because from their reading, the faithful also derive many benefits. Finally, the leg-

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islator clearly affirms in the preface that he wishes to heal the consciences of many, and to temper the new rules so that it may not be difficult or burdensome for anyone to observe them; and he states that he has imitated the maternal care of the Church and the examples of his predecessors in such a manner of acting. It is clear that within the Church, many things are tolerated and must necessarily be tolerated in order to avoid greater evils that are contrary to natural and divine law; and examples of this are religious tolerance, freedom of the press, etc. Thus, such a difficulty should be extended to many other things. 43. Through the original texts, no one understands the handwriting of the authors, but the language in which the sacred books were first written.

[*Latin ed. p. 179*]

COMMENTARY 179: These are written in Greek, and have been transmitted to our time through copies. Furthermore, concerning the Old Testament, the original text is Hebrew, while concerning the New Testament, it is Greek. It has been determined that the books of the Old Testament were written in Hebrew, with the exception of the Book of Wisdom and the Second Book of Maccabees, which were written in Greek, and with some exceptions in certain chapters of some books; the books of the New Testament, with the exception of the Gospel of Matthew, were written in Greek. The ancient versions of the sacred Scriptures, as is indicated in the very paragraph, belong either to the Western Church or to the Eastern Church. Indeed, the former were written in Latin; these are the *Vetus Itala*, which was compiled by the Seventy Translators, and the *Vulgata*, which is deservedly attributed to St. Jerome, who himself translated almost all the books of the Old Testament into Latin, revised the Psalms, and translated the entire New Testament, which he had previously rendered into Greek. For the Eastern Church, the principal version is the *Alexandrina*, commonly called the version of the Seventy Translators, which was also in use in the Latin Church until the sixth century. These are followed by the Greek versions of Aquila, Theodotion, Symmachus, those that appear under the names of the Quinta, Sexta, and Septima Editions, because their authors are unknown, and because of the order in which they are arranged in the Hexapla; the Origenian, the Samaritan, the Chaldean, the Syriac, the Arabic, the Ethiopian, the Persian, the Egyptian or Coptic, the Armenian, the Gothic, of which only a few fragments remain, and the Slavic, which was completed in the middle of the ninth century by Saints Cyril and Methodius. However, editions of these original texts and ancient versions, although they appear to have been faithfully and completely compiled, are prohibited if published by anyone who is not Catholic, and are permitted only to those who are engaged in theological or biblical studies. These are not only those who complete a scholastic course in Sacred Theology or in Holy Scripture in universities, colleges, or seminaries, but all those who

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devote their minds to these studies and sciences, whether they are clerics or laymen; for the terms are general, and they exclude no one who is engaged in these sciences. However, it must be noted that those to whom these texts and

[*Latin ed. p. 180*]

180 A reading of versions is permitted, with the special reason that those engaged in theological and biblical studies ought to devote themselves to this; and others are to be excluded; otherwise, perhaps no Priest, whether from the secular or regular clergy, could be excepted, since these sometimes deal with volumes of the Holy Scriptures and of Sacred Theology; yet they do not properly devote themselves to these studies. However, the legislator's intention is clear: the reading of these books is also forbidden to those who are devoted to the aforementioned sciences, if the dogmas of the Catholic faith are impugned in the introductions or notes. From what has been said, it is clear that the editions of these volumes, although free from error by any, are simply prohibited; and are permitted only to those engaged in theological and biblical studies; and are not permitted to these, if the dogmas of the Catholic faith are impugned in the introductions and notes.

44. Although the Latin Vulgate Edition has been in use in the Church since the 6th century, and has been adopted for public liturgical use, it was not without its flaws; therefore, learned Catholics and heterodox individuals attempted to produce a version from the original languages, in which the sacred books were written. However, editions of the Holy Scriptures, whether in Latin or another non-vernacular language, produced by Catholics, are not included under such a paragraph, but only those that have been published by non-Catholics. We will now list the most important Latin versions produced by them. Having omitted the versions of Erasmus and Theodore Beza, in the year 1534, the Munster version appeared; in the year 1535, the version compiled by Oecolampadius appeared; the third is that of Leo Jude, which is called the Tigurine version, because it was published in Tiguri in the year 1543; the fourth is the version of Sebastian Castalion, which was printed in Basle in the year 1551; the fifth is the version of Junius and Tremellius, which appeared in Geneva in the year 1590; the sixth is the Genevan version. Other Protestants also produced and published versions of both the Old and New Testaments in non-vernacular languages. Therefore, although these versions have been published faithfully and accurately, they are permitted only to those engaged in theological or biblical studies, provided that the dogmas of the Catholic faith are not impugned in the introductions or notes. They are therefore forbidden to all others. However, a question naturally arises, which must be resolved. What if some versions, whether in Latin or in a non-vernacular language,

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were first published by non-Catholics, but were later edited by Catholics?

[*Latin ed. p. 181*]

COMMENTARY 181: Should these new editions be again placed on the Index? These new editions of the prohibited books, do they fall under the purview of this paragraph, or not? They do not appear to fall under its purview; for the law concerns versions published by non-Catholics; nor does it matter that they were first published by them; for by a new edition published under the name of Catholics, both the title is changed, and any suspicion is removed, since it is not to be supposed that Catholics would publish versions in which, in some way, the dogmas of the Catholic faith are impugned, or the sacred text is corrupted. Finally, such editions are prohibited for only one reason: because they were published by non-Catholics, not because they are intrinsically corrupt and are so; therefore, they can be again published by Catholics, simply, so that they may be safely read by all. On the contrary, if versions of this kind, first published by clearly Catholic men, are again published by some Protestant society, even faithfully and integrally, they fall under the purview of the paragraph, since the law does not distinguish between versions composed by Catholics or non-Catholics, or first published, but establishes one condition for the prohibition: if they are published by non-Catholics; which, in the case in question, is clearly the case. 45. The disposition of this paragraph was renewed, both in other decrees, and in Rule IV of Trent, although not without a significant difference. For in it, one Bishop and Inquisitors, with the advice of the parish priest or confessor, could grant the faculty of the sacred Bible in the vernacular language only to those who they judged would derive not harm, but an increase of faith and piety, from such reading; nor was there any mention of the approval of the Pope, or of annotations to be inserted in such vernacular editions, taken from the holy Fathers of the Church, or from learned and Catholic men. But this faculty was removed by Pope Pius IV from Bishops, Inquisitors, and even from the superiors of religious orders, who had arrogated it to themselves, as is evident from the Observations of Clement VIII on Rules IV and IX (Index XIX). The condition regarding vernacular Bibles with prescribed annotations, etc., was established by the decree of the Sacred Congregation of the Index of June 13, 1757 (Ibid.). Our legislator, anticipating all the dangers that may arise from such Bibles, forbade all versions in the vernacular language, unless they have been approved by the Apostolic See, or published under the supervision of Bishops, with annotations taken from the holy Fathers of the Church, and from learned men.

[*Latin ed. p. 182*]

COMMENTARY by esteemed Catholic writers. From this, it is clear that the old law abrogated that part by which any were permitted to publish

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vernacular Bibles, provided that they contained the prescribed annotations, and that the publishers were to be diligent under the supervision of the bishops; which is not permitted in the new law. From the cited words, however, a question arises: does the condition imposed regarding the non-publication of vernacular Bibles without annotations apply to editions made under the supervision of bishops, or does it also include those versions that have been approved by the Roman Pontiff? After considering all things, it seems clear that the condition imposed applies to versions published under the supervision of bishops. It is evident that our legislator has almost exactly repeated the words that were prescribed in Rule IV of the Council of Trent, in the cited Decree of the Sacred Congregation of the Index, 1757, and in the warning of the same Sacred Congregation issued on January 7, 1836. But in the old law, the condition regarding the inclusion of appropriate annotations applied to vernacular versions not approved by the Roman Pontiff, as is clear both from the cited decree of 1757: "If such versions of the Bible in the vernacular language have been approved by the Apostolic See, or have been published with annotations taken from the Holy Fathers of the Church, or from learned and Catholic men, they are permitted." Here, the word "or" clearly distinguishes versions approved by the Roman Pontiff from those published without such approval; and also from the warning of the same Congregation, in which it is read: "Vernacular versions of the Bible are not to be permitted, unless they have been approved by the Apostolic See, or have been published with annotations taken from the Holy Fathers of the Church, or from learned and Catholic men." Since, therefore, the new legislator has renewed the same law without any distinction, it must be certain that the condition regarding the inclusion of annotations applies to versions published under the supervision of bishops, and not to those approved by the Roman Pontiff. Let no one object that the reason for prohibiting Bibles published in the vernacular language has been and is, because it has been proven by experience that, if they are permitted indiscriminately, more harm than benefit will result, due to the recklessness of men; and to eliminate this danger, appropriate annotations are prescribed; but it is certain that such danger remains even for vernacular Bibles approved by the Apostolic See, if they are published without...

[*Latin ed. p. 183*]

COMMENTARY 183. Let the annotations be published with the editions; hence, there arises no argument whereby versions of the Bible, confirmed by the Pontiff, might be excluded from such a condition; and it is absurd to introduce an exception without a serious foundation. I say, no one should object to this; for the reason adduced is confounded with the end which the Legislator intended; and the end of the law does not fall under the law itself; and furthermore, a version approved by the Roman Pontiff can

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be absolute in such matters, so that it may repel such dangers, both for its fidelity and for its clarity; for it is not to be supposed that the Pontiff will approve of any versions, but only the best. Moreover, if that condition concerning suitable annotations to be appended, affected even versions approved by the Roman Pontiff, 1. this approval would confer nothing on the approved versions; 2. it would not be understood why they were expressed by the Legislator, since they would be to be considered the same as versions freely published under the supervision of Bishops, with the prescribed annotations; and it would have been sufficient to say: "No vernacular versions of the Holy Scriptures are permitted unless they are published with annotations, etc." Furthermore, the conjunction or the various members of the sentence clearly distinguish, and indicate completely different things: this or that; so that the condition placed at the end is to be understood to apply only to the last member, unless otherwise expressly stated. As is clear from the reading of the paragraph, the new Legislator burdens Bishops with a concern regarding such versions and annotations; in which he derogates somewhat from the ancient law, since it was formerly permitted to anyone to publish the Holy Scripture in the vernacular language, provided that suitable annotations were appended, with no mention of the care of Bishops; but in the new law, they must be published under the supervision of Bishops; so that they cannot be published without their consultation, or even without their knowledge; for supervision not only implies knowledge of the matter, but also care that the matter to be done is carried out properly, and in accordance with the law. For this reason, Bishops, either by themselves or through suitable persons, must be certain of the fidelity of the version, of the suitability of the annotations, of their truth, and of their proper placement; moreover, they must be certain that those annotations have been taken from the Holy Fathers of the Church, or from learned and Catholic men. Therefore, 1. what if these Bibles are faithfully published, even without the consultation of the Bishops, and even with suitable annotations appended?

[*Latin ed. p. 184*]

184 COMMENTARY. Indeed, such editions ought to be condemned, not only because of the provisions contained in the present paragraph, which prescribes that the Vulgate Bible be published under the supervision of Bishops, but also because they are altogether prohibited; but also because of the decree in paragraph 48, which forbids the printing of books of the Holy Scriptures without the approval of the Ordinary.

2. What if at least some of the notes are taken not from the Holy Fathers of the Church, nor from learned and Catholic men, but from erudite, albeit heterodox, individuals? This question deserves an answer. If such notes concern geographical, ethnographical, topographical, archaeological, or other matters pertaining to the natural sciences, such versions do not

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seem to be prohibited, provided they have been published under the supervision of Bishops; for the law does not speak of notes of this kind, but of those which pertain to faith and morals. It must be assumed that the new legislator intended to prescribe to these annotators the same rules that the Fathers of Trent, in Session IV, prescribed to the interpreters of the sacred books; so that, lest they, relying on their own prudence, should dare to interpret the divine Scriptures in matters pertaining to faith and morals, to the detriment of the edification of Christian doctrine: "To restrain the audacity of minds, it is decreed that no one, relying on his own prudence, shall dare to twist the Holy Scripture in matters pertaining to faith and morals, for the edification of Christian doctrine, contrary to that sense which the Holy Mother Church has held and holds, whose office it is to judge of the true sense and interpretation of the Holy Scriptures, or even to dare to interpret the Holy Scripture itself contrary to the unanimous consent of the Fathers." However, it is not to be supposed that Leo XIII intended to extend such a Tridentine decree to other matters which do not relate to the doctrine of faith and morals. Furthermore, in our age, more things can be declared in the Holy Scriptures, thanks to new discoveries in Assyria, Syria, Palestine, Egypt, and other places, which were previously almost inexplicable; but these discoveries are often made by non-Catholics. If, moreover, the notes added are taken from non-Catholics and concern the doctrine of faith and morals, then the vernacular editions of the Bible must be considered prohibited, since the legislator expressly prescribes that they must be taken from Catholic men. Finally, in conclusion, regarding the prohibition of...

[*Latin ed. p. 185*]

COMMENTARY 185: Some Doctors of Scripture, when referring to passages in the vernacular languages, state the following: 1. That the Church has never absolutely prohibited the reading of the Holy Scriptures. The original texts, and ancient versions, were always available to all, both in the Eastern and Western Churches. 2. That the Church has never absolutely forbidden the reading of the Vulgate Bible. This is evident from the very words of the Council of Trent: "If the Sacred Bible, in the vernacular language, is permitted everywhere and without distinction, then, with prudence and discernment applied, it is permitted." 3. That certain particular Churches, due to circumstances, have prohibited such reading; not for all, but for those for whom it was understood to be harmful to the faith. 4. That the Church is not bound to have the Divine Scriptures read in the vernacular language. 5. Nor is such reading necessary for all the faithful. 6. Indeed, it is not to be permitted to all indiscriminately; for in the Divine Scriptures there are certain things difficult to understand, which, for the uneducated and unstable, lead to their own ruin. 7. Therefore, it belongs to the pastors of the Church to have the power to prohibit the reading of the Vulgate Bible;

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for they are bound to protect the flock from harm and dangers, whatever the source. Glaire, Ubaldi, and Cornely, in their Introductions to the Old and New Testaments. 46. This absolute prohibition applies to Bibles in the vernacular language produced by non-Catholics; and especially to those disseminated by biblical societies. The Protestants, so that they might not seem to be guided by any principle other than the authority of the Church in matters pertaining to doctrine and morals, establish a double principle for themselves: a subjective one, consisting in individual reason, and an objective one, consisting solely in the Sacred Scriptures; otherwise, they would establish the Divine Scriptures, understood and explained by individual reason, as an absolute principle. Hence the logical necessity of reading and disseminating the Sacred Scriptures; hence the establishment of societies whose purpose is to disseminate the Sacred Bible in all languages. We will now enumerate the most important of these.

[*Latin ed. p. 186*]

186 COMMENTARY: In the year 1698, a Society was founded, whose purpose was to promote Christianity. In the year 1701, a Society originated for the propagation of the Gospel among foreign nations. In the year 1709, a Scottish Society was established for the dissemination of knowledge of the Christian religion. In the year 1750, a Society was formed to promote the advancement of religious knowledge among the poor. In the year 1780, a Biblical Society was founded for the soldiers who served in the kingdom of Angliae, both on land and at sea. In the year 1785, a Society was established to provide assistance and to promote schools that were held on Sundays. From Henrion, *Historia Ecclesiastica*, Volume XII, page 191. Milan. However, all of these Societies, as well as others, were overshadowed by the great Biblical Society founded in London on March 7th, in the year 1804, whose primary purpose was to translate the Holy Scriptures into all languages and dialects, and to disseminate them everywhere. From the year 1804 to the year 1889, either the entire Bible, or portions thereof, were translated into two hundred seventy-five languages, and the number of copies produced amounted to one hundred twenty-four million. Roman Pontiffs have repeatedly condemned such Biblical Societies and the popular versions of the Scriptures produced by them. Relevant documents were collected and published by the *Moderator Periodici Acta S. Sedis* in the year 1877, {a) from the time of Innocent III to Gregory XV; those which pertain specifically to Biblical Societies, I deem it appropriate to include partially in this Commentary. Therefore, Pope Pius VII, in a letter to Archbishop Ignatius of Gnesen, who had informed the Holy See of the efforts of Biblical Societies to the detriment of the Catholic cause, and who had sought advice on what action should be taken, responded, among other things, on June 4th, 1816: "It is of the utmost importance that all should cooperate with all their strength to counteract those things which are being

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prepared by the enemies of our most holy religion to its detriment; and therefore, it is the duty of the episcopal office first of all to expose the evil designs to the eyes of the faithful, and to instruct them, according to the teachings and wisdom of the Church, (a) Documents concerning the so-called Roman Biblical Societies. From the Polyglot Printing Press of the Sacred Congregation for the Propagation of the Faith, 1877.

[*Latin ed. p. 187*]

COMMENTARY: "Indeed, the works of heretics printed books are forbidden, according to the rules of the Index (§ 1, n. S). However, experience has shown that, from the Holy Scriptures which are published in the vernacular, more harm than benefit arises for the minds of men (Reg. IV); and this is to be feared all the more in these times of such corruption, in which, from every quarter, efforts are made to attack the holy religion, and grievous wounds are inflicted upon the Church. Therefore, it is necessary to adhere to the salutary decree of the Congregation of the Index (June 13, 1757), which states that translations of the Bible into the vernacular are not to be permitted, unless they have been approved by the Apostolic See, or are published with annotations taken from the Holy Fathers of the Church."

"Moreover, in the same year, 1816, he wrote letters to Archbishop Stanislaus of Mohiloviensem, who opposed the Bible Societies, and instead provided them with assistance. Thus, he was rebuked: 'We are greatly and bitterly grieved when we learned that you have conceived a disastrous plan, not for the first time, by which the most sacred books of Scripture are to be disseminated in new and, beyond all measure, harmful interpretations, and with these twisted in a perverse sense, in every vernacular language. For from some of these versions that have already been brought to our attention, we have observed that they prepare a ruin for the purity of the faith, so that the faithful can easily draw from them a deadly poison, from which they ought to draw the waters of wisdom and salvation. But even greater is our sorrow when we read certain letters from your Fraternity, in which you exhort and urge the people of your care to acquire these recent versions of the Bible, or to accept those offered to them willingly, and to peruse them with diligent and attentive study. Nothing could have caused us more acute pain than to see you, who ought to have been a stumbling block to others, become a stumbling block yourself.'"

"For it should have been clear to you, as Our predecessors and we have constantly warned, that if the sacred Scriptures are permitted to be disseminated widely in the vernacular without discrimination, more harm than benefit will arise from them. Furthermore, the Church of Rome, accepting only the Vulgate edition, as prescribed by the well-known decree of the Council of Tridentini, rejects other versions in other languages, and permits

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only those which are published with annotations from the Fathers."

[*Latin ed. p. 188*]

188 COMMENTARY: And, with opportune excerpts from the writings of Catholic doctors, it is taught, so that so great a treasure may not be exposed to the corruptions of novelties, and so that the Church, spread throughout the world, may have one lip and the same words (Add. ad Reg. IV Ind.). Indeed, since we observe very frequent changes, varieties, and alterations in the vernacular language, it is clear that that mutability would be unleashed, which is unbecoming of divine testimonies, and even faith itself would be altered, especially since, sometimes, the truth of a dogma is determined by a single syllable. Therefore, heretics have always exerted their most wicked and treacherous machinations in this regard, so that they might, through the guise of the divine word, introduce their own errors, cloaking them in the published vernacular Bibles (although, indeed, they accuse and criticize each other regarding their marvelous variety and discrepancy). For, as Saint Augustine says, heresies are not born unless the good Scriptures are not understood well, and that which is not understood well in them is also asserted rashly and presumptuously (Tract. XVIII in Ioan.). And if we sometimes lament that men most pious and wise in the interpretation of the Scriptures have failed, what should we fear if the unlearned common people, who judge mostly not with any discernment, but with a certain rashness, were given freely to peruse the Scriptures translated into any vernacular language? Thus, Saint Augustine rightly exclaims, "He who is not imbued with poetic discipline would not dare to approach Terence without a teacher... But you rush into the holy books without a guide, and you dare to offer your judgment on these things without instruction?" (Lib. de Utilit. credendi ad Honorat. Cap. 2.). Therefore, our predecessor Innocent III wisely and completely commands these things in that famous letter to the faithful of the Church of Metz: "The sacred mysteries of the faith are not to be explained to everyone indiscriminately, since not everyone can understand them indiscriminately, but only to those who can comprehend them with faithful understanding. Therefore, as the Apostle says, 'I have given you milk to drink, not meat, for you were not yet ready; for you were not yet able to bear it. But now that you are come to full age, I will give you the meat of wisdom; for as I said before, I have not judged myself to know anything among you, except Jesus Christ and Christ crucified.' Such is the depth of the divine Scripture, that not only the simple and uneducated, but also the prudent and learned do not fully suffice to comprehend it."

[*Latin ed. p. 189*]

COMMENTARY 18: "The understanding must be sought. Therefore, Scripture says: 'For many are in tribulation, and seek out the mysteries' (Psalm 63:6). Hence, it was once established in divine law that the beast

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which had touched the anointed one should be stoned, lest some simple and unlearned person should presume to delve into the depths of Holy Scripture, or to preach to others. For it is written: 'Seek ye out those things which are higher' (Ecclesiasticus 7:26). Therefore, the Apostle says: 'Be not wiser than you ought to be, but be wise unto sobriety' (Romans 12:16). But it is well known that not only Innocent III, but also Pius IV, Clement VIII, and Benedict XIV, in their Constitutions, warned against the danger that if Scripture, which appeared clear to all, should perhaps be weakened and held in contempt, or be misunderstood by the common people, it might lead them into error. But what is the mind of the Church concerning the reading and interpretation of Scripture, this is most clearly shown by the Constitution *Unigenitus* of our predecessor Clement XI, by which those doctrines are expressly condemned, which asserted that it was useful and necessary for all people, at all times, in all places, and of every kind, to understand the mysteries of Holy Scripture, and that to prevent the Christian people from doing so would be harmful, and indeed, that the mouth of Christ would be closed to the faithful, when the New Testament was taken from their hands. Quesnelli 79, 80, 81, 82, 83, 84, 85. Hence, we earnestly exhort our Brothers, and we beseech them in the bowels of our Lord Jesus Christ, to make due amends for all those things which you have taught or done wrongly concerning the new versions of the Bible."

These words are truly taken from the Encyclical Letter of Leo XII, which begins with the words "Ubi primum," dated May 5, 1824, and which we deem fitting to insert in this Commentary.

"What more can be said? The wickedness of our enemies proceeds to such an extent that, besides the flood of pernicious books which are harmful to religion in themselves, they strive to turn even the Holy Scriptures, which were divinely given to us for the edification of religion, to the detriment of religion. You know, Venerable Brothers, that a certain society, commonly called 'Biblical,' is boldly wandering throughout the world, which, despising the traditions of the Holy Fathers, and contrary to the well-known decree of the Council of Trent, is devoting all its efforts and means to..."

[*Latin ed. p. 190*]

190 COMMENTARY: "The sacred Scriptures of all nations are either translated or, rather, perverted. From this, there is great reason to fear that, just as in some cases is already known, so too in others, a perverse interpretation of the Gospel of Christ will become the Gospel of men, or, what is worse, the Gospel of the Devil" (Jerome, on Chapter 1, Epistle to the Galatians). To avert this evil, our predecessors have published many constitutions. We also, for the sake of our apostolic office, urge you, Very Reverend Fathers, to strive in every way to remove your flocks from these deadly pastures. Argue, implore, insist opportunely and inappropriately,

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with all patience and instruction, so that your faithful may firmly adhere to the rules of our Index Congregation, and persuade themselves that if the Sacred Bible is permitted everywhere without discrimination, more harm than benefit will arise from it due to the recklessness of men. This truth is demonstrated by experience, and, besides other Fathers, St. Augustine declared it with these words: "For heresies and certain doctrines of perversity are not born, and do not drag souls down into the depths, unless it is the case that the good things of Scripture are understood poorly, and that what is understood poorly in them is also asserted rashly and boldly" (Tractate 18 on Chapter 5). Therefore, Very Reverend Fathers, this is what the Society in question has done, leaving nothing unattempted to fulfill its wicked purpose. It not only publishes its versions in print, but also spreads them among the common people throughout all cities, by itself; indeed, it seeks to attract the minds of the simple, which it intends to sell, which it manages with insidious generosity. But Gregory XVI, having considered many things, and not all that I have mentioned, in an encyclical letter which he published in the year 1844 to all the Catholic Bishops of the world, added other things that happened in his time, and which, for the instruction and benefit of the readers, we consider it useful to reproduce almost entirely, so that they may also understand with what truth and with what weight of reason the Roman Pontiffs have condemned the Biblical Societies: "Among the principal machinations by which non-Catholics of various names seek to undermine the cultivators of Catholic truth, and to turn their minds away from the sanctity of the faith, the Biblical Societies hold a prominent place, which, having been first instituted in England, have long since spread widely."

[*Latin ed. p. 191*]

COMMENTARY 191: "We observe that these [Bible Societies], acting as if in a conspiracy, strive to publish a large number of copies of the books of the Holy Scriptures translated into various languages, and to distribute them among both Christians and non-Christians without any distinction, and to encourage everyone to read them, regardless of their condition. Thus, what Jerome lamented in his time, and what the garrulous ancients, and the verbose sophists, and all [people], if they only knew how to read, make common, is the art of understanding the Scriptures without a teacher; indeed, it is so absurd, and not unheard of, that even the common people among the non-believers are excluded from such a shared understanding.

2. "But it is certainly not unknown to you, venerable brothers, what purpose these societies have. For you know that the principal Apostle, Peter, after praising the epistles of Paul, stated that there were certain things in them that were difficult to understand, which the unlearned and unstable pervert, just as they pervert other Scriptures, to their own destruction; and immediately he adds: 'Therefore, brothers, be all the more diligent to make

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your calling and election sure' (2 Peter 3:16-17). Hence, it is evident that from the very beginning of the Christian name, it has been the practice of heretics to, having rejected the word of God and rejected the authority of the Catholic Church, either alter the Scriptures by hand, or distort the meaning of their exposition (Tertullian, *De Praescriptionibus* 38, PL II, 62). And finally, you are not unaware of how much diligence or wisdom is required to faithfully translate the words of the Lord into another language; so that it is easier for very grave errors to be inserted into their versions by these Bible Societies, whether through the imprudence or the fraud of interpreters. And this multitude and variety of translations further conceals these errors for a long time, to the detriment of many. However, these societies are concerned very little, or not at all, whether the people who read the Scriptures translated into the vernacular languages are led to embrace other errors rather than the true faith; provided that they gradually become accustomed to claiming for themselves the right to judge the meaning of the Scriptures, and to reject the divine traditions taught by the Church Fathers."

[*Latin ed. p. 192*]

192 COMMENTARY: "The Catholic doctrine, and indeed the very teaching authority of the Church, must be defended. 3. "With this end in view, these same individuals ceaselessly slander the Holy Church and this See of Peter, as if it were attempting to prevent the faithful people from understanding the Sacred Scriptures for many centuries; whereas, in fact, the most luminous documents have been produced, and in recent times the Supreme Pontiffs and other Catholic prelates have used every effort to instruct the Catholic people more deeply in the written and transmitted words of God. Among the first of these are the decrees of the Council of Trent, by which, not only were bishops commanded to ensure that the Sacred Scriptures and the divine law were more frequently proclaimed throughout their dioceses (Session 24, Chapter 4, on Reform), but furthermore, the Council of Lateran provided that in each church, whether cathedral or collegiate, in important cities and towns, there should be a theological lecturer, and that this position should be entirely assigned to suitable persons for the exposition and interpretation of the Sacred Scriptures (b). Concerning this theological lecturer, provisions were made in many provincial synods (c) to establish regulations in accordance with the decrees of the Council of Trent, and also in the Council of Rome in the year 1725 (d), in which our predecessor, Pope Benedict XIII, may God reward him, convened not only the sacred prelates of the Roman Province, but also many from among the archbishops, bishops, and other ordinaries of the places, who were in no way subject to this Holy See (e). Furthermore, the Supreme Pontiff, with the same end in view, established certain things in Apostolic letters, which were specifically addressed to

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Italy and the surrounding areas (f). Finally, to you, venerable brothers, who are accustomed to report to the Apostolic See on the condition of ecclesiastical affairs in each diocese (g), the Council of Lateran in the year 1215 under Innocent III, chapter XI, which was included in the body of law, chapter 4 on Masters. (b) Trid. Session V, chapter 1 on Reform. (c) In the Council of Milan in the year 1595, part 1, title on the Theological Lecturers of Milan, V, in the year 1579. (d) Title 1, chapter 6 and following. (e) In the letters of convocation of the Council, December 24, 1724. (f) Constitution Pastoralis officii, June 13, 1725. (g) From the Constitution of Pius V, January 13, 1595, and the Constitution of Bene-

[*Latin ed. p. 193*]

COMMENTARY 193: "You have seen, from the responses given repeatedly by our Congregation to the Council, either to your predecessors or to yourselves, that, as is customary, the Holy See congratulates Bishops when they have theologians appointed who are diligently performing their duties in public lectures on sacred literature, and that it never ceases to encourage and assist their pastoral concerns, if anywhere, the matter does not yet succeed according to their judgment. 4. "Furthermore, with regard to the Bibles translated into the vernacular languages, it had happened in many places over the centuries that the sacred prelates had to exercise greater vigilance regarding versions of this kind, either because they were read in secret gatherings, or because they were disseminated more widely by heretics. And to this end, warnings and precautions were issued by Innocent III, our glorious predecessor, concerning gatherings of laymen and women under the pretext of piety, and for the purpose of reading scriptures, in the Diocese of Metz {a), as well as the particular prohibitions of vernacular Bibles, which we find, either in Gallus shortly thereafter {b), or in Spain before the 16th century (c). But greater prudence was required later, when the Lutheran and Calvinist non-Catholics dared to attack the immutable doctrine of the faith with an incredible variety of errors, leaving nothing undone to deceive the minds of the faithful through perverted interpretations of sacred scripture, and by their associates, through new interpretations of these scriptures in the popular vernacular, the multiplication and rapid dissemination of which were aided by the recently invented art of printing. Therefore, in the rules which were drawn up by the Fathers and the Council of Trent, and approved by our predecessor, Pope Pius IV (d), and which are prefixed to the Index of Prohibited Books, the General Council of Trent decreed that..." [The passage continues with references to the Sardicense Council of 1740 and an appendix, but the text is incomplete.]

(a) In three letters addressed to the people of Metz, and to their Bishop and chapter, as well as to the Abbots of Gistercie, Morimond, and Cripta, which are Epistles 141, 142, book 2.

(b) In the Council of Toulouse in the year 1229, canon 14. Mansi XXIII,

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(c) From the testimony of Cardinal Pacecco in the Council of Trent. See Pallavicini, *Storia del Concilio di Trento*, book VI, chapter 12, n. 5, and following.

(d) In the Constitution *Dominici Gregis* of March 24, 1644. Acta, volume X.X.X., session CCCLIII, 13.

[*Latin ed. p. 194*]

194 COMMENTARY: "It is stated in the Indice that it is forbidden to publish Bibles in the vernacular, unless it is judged that their reading will be beneficial to the increase of faith and piety" (a). To this same rule, a new caution was subsequently added, due to the persistent deceptions of heretics, and it was declared, with the authority of Pope Benedict XIV, that the reading of vernacular versions is permitted, provided that they have been approved by the Apostolic See, or that they have been published with annotations taken from the holy Fathers of the Church, or from learned and Catholic men (b).

5. "Meanwhile, there were some sectarians from the school of Jansenius who did not hesitate to criticize this most prudent policy of the Apostolic See, borrowing the style of the Lutherans and Calvinists, as if the reading of the Scriptures were always useful and necessary for every kind of faithful person, at all times and in all places, and therefore could not be forbidden to anyone by any authority whatsoever. We have, however, more severely condemned this audacity of the Jansenists in solemn judgments, which, with the applause of the entire Catholic world, refuted their doctrines, namely, by two most holy Popes, namely, Clement XI in the Constitution *Unigenitus* of the year 1713 (c), and Pius VI in the Constitution *Auctorem fidei* of the year 1794 (d).

6. "Thus, before the biblical societies were established, the faithful had already been provided with safeguards against the deceptions of heretics in that noble endeavor to spread divine literature among the common people. However, Pope Pius VII, our glorious predecessor, who saw these very societies flourishing greatly in his time, did not fail to oppose their efforts, both through his apostolic messengers, and through letters and decrees issued by various congregations of the Holy Roman Church (e), as follows: (a) In the Indice Rules 3 and 4. (b) In addition, Rule IV was added to the aforementioned decree of the Congregation of the Index on June 17, 1757. (c) In the condemnation of the propositions of Quesnel, from number 39 to 45. (d) In the condemnation of the Pseudo-Synod of Pistoia, number 67. (e) First, through a letter from the Congregation for the Propagation of the Faith to the Apostolic Vicars of Persia, Armenia, and other regions of the East, dated August 3, 1816, and through a decree concerning all such versions, issued by the Congregation of the Index on June 23, 1817. By this general decree, the work entitled *Historia succinta delle operazioni della

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Compagnia Biblica Britannica e straniera* was placed on the Index.

[*Latin ed. p. 195*]

COMMENTARY 195: "Then, through two papal bulls, which He gave to the Archbishops of Gnesen and Mohilov, [He] followed the same biblical societies. Our predecessor, Leo XII, of blessed memory, pursued these same biblical societies in encyclical letters addressed to all the bishops of the Catholic world, dated May 5, 1824; and Our most recent predecessor, Pius VIII, also did the same in an encyclical letter published on May 24, 1829. We, therefore, who have succeeded to this office with far less merit, have certainly not neglected to apply ourselves to this end, and among other things, We have taken care to bring to the attention of the faithful the rules formerly established concerning vernacular translations of Scripture (b). 7. But We are exceedingly pleased with you, venerable brothers, because, spurred by your piety and prudence, and confirmed by the actions of Our predecessors, you have not failed to warn the Catholic flock whenever it was necessary, so that they might avoid the snares that were being laid for them by biblical societies. And through these efforts of the bishops, working in concert with the supreme solicitude of this See of Peter, and with the blessing of the Lord, it has come to pass that certain imprudent Catholic men who were favoring biblical societies have suddenly perceived the fraud, concerning matters pertaining to the same. "He who is from God hears the words of God." – John 8:12. Naples, at the press of Agnello Nobile, bookseller and printer, via Santabrigida, no. 27, 1817. Decree of the same date (June 23, 1817), and all translations of the Bible into any vernacular language, unless they have been approved by the Apostolic See, or have been published with annotations taken from the Fathers of the Holy Church, or from learned and Catholic men, according to the decree of the Most Holy Congregation of the Index of June 13, 1757. Given in Rome, on July 12, 1817. (a) The above has been stated. (b) These rules are contained in the warning appended to the decree of the Congregation of the Index of January 7, 1856, which We reproduce here: "Having received certain information that the sacred books of Scripture have been printed in the vernacular in some places, and that the salutary laws concerning this matter are not being observed; and fearing that (which is a conspiracy of wicked men, especially in these times) errors, veiled under the guise of the divine word, may be insidiously introduced, the same Holy Congregation deemed it necessary to bring to the attention of all what had been previously decreed: namely, that vernacular translations of the Bible are not to be permitted, unless they have been approved by the Apostolic See, or have been published with annotations taken from the Fathers of the Holy Church, or from learned and Catholic men (according to the decree of the Holy Congregation of the Index of June 15 or 13, 1757, in the additions to the Index); furthermore, those must be strictly adhered to which were

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established by Rule IV of the Index, and subsequently by the mandate of the Most Holy Clement VIII for that purpose."

[*Latin ed. p. 196*]

196 COMMENTARY: "That they might withdraw from them, and that the rest of the faithful people might remain, for the most part, safe from the contagion that threatened them. 8. "Meanwhile, the biblical sectarians were sustained by the hope that they would gain great praise by inducing, in any way, unbelievers to embrace the name of Christ, through the reading of sacred texts published in the vulgar language of themselves, which, in a very large number of copies, were distributed to missionaries, or rather, to those sent out by them, to their regions, and even forced upon those who were unwilling. But those who strive to spread the name of Christ contrary to the rules instituted by Christ Himself, have achieved almost nothing, except that they have sometimes been able to create new obstacles for Catholic priests, who, sent by this Holy See to the nations, spared no labors, so that through the preaching of the Word of God and the administration of the sacraments, they might bring forth new children of the Church, ready even to shed their blood for their salvation and as a witness to the faith, amidst the most exquisite torments. 9. "Indeed, among those sectarians, who, thus gratified by their expectations and with a saddened spirit, reflected on the great sum of money hitherto expended on their books and on the lack of any fruit from their dissemination, some were recently discovered who arranged their machinations in a new order, aiming, above all, to capture the minds of the citizens of Italy, and of this very city. Indeed, from the news and documents received, it is known that several people of various sects in Neo-Eboraci in America, last year, convened and, on the eve of the Ides of June, established a new society called the "Christian League," and others, and still others, from every nation, were incorporated into this society, or established in its aid, with the common aim of instilling religious freedom, or rather, the madness of indifference regarding religion, among the Romans and Italians and others. They confess that, for many centuries past, the institutions of the Roman and Italian peoples have been such that nothing of great importance has happened in the world without it having been begun in this city; which, indeed, is not derived from the supreme See of Peter, established here by the Lord, but from certain remnants of ancient domination, which they claim are preserved in the power usurped by our predecessors. Therefore,..."

[*Latin ed. p. 197*]

COMMENTARY 197: "Since it is their established purpose to grant to all peoples the freedom of conscience, or rather, the freedom of error, from which, as from its source, both political freedom and the increase of public prosperity flow, according to their understanding; nevertheless, they

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can achieve nothing unless first the Italians and the Romans, as citizens, have made some progress. Afterwards, the remaining peoples will greatly benefit from their authority and endeavors. And they confidently believe that this can easily be achieved, since there are so many Italians living in various places throughout the world, and a considerable number return to their homeland, among whom not a few are already zealously devoted to new ideas, or are corrupted by vices, or are afflicted by poverty, and are attracted by no means to give their names to this society, or at least to sell their services to it for a price. Therefore, they have directed their efforts to bring these people from all sides into their hands, and to bring vulgar and corrupt books here, and to introduce them into the circle of the faithful; and also to distribute together with them the worst of books and pamphlets, which, according to the minds of those who read them, are intended to undermine obedience to the Holy Church and this Holy See, composed either by Italians, or translated into the vernacular from other authors; among which, the *Historia Reformationis* written by Merle d'Aubigny, and the *Memoriae super Reformatione apud Italos* by Ioannes Cric are particularly noteworthy. Furthermore, concerning this entire genre of books, what it will be like can be understood from what is stated in the society's statutes regarding the particular selection of books destined for certain groups, namely, that never should more than two members of the same religious sect be present together.

10. These matters, as soon as they were reported to us, we could not but be deeply saddened by the consideration of the danger, which we learned was being prepared for the safety of the most holy religion, not only in places remote from the City, but even near the very center of Catholic unity, by sectaries. Although it is to be feared that the See of Peter will never fail, in which the impregnable foundation of the Church was established by Christ the Lord, nevertheless, we are not to cease from defending its authority; and moreover, by the most severe reason, which the Divine Shepherd requires from us, on account of the increasing tares in the field of the Lord, if any that have been sown upon us by the enemy while we are sleeping, and on account of the blood of the entrusted sheep which will perish through our fault from this place. "

[*Latin ed. p. 198*]

198 COMMENTARY 11. "Having consulted with certain Cardinals of the Most Holy Roman Church, and having carefully and thoroughly considered the entire matter, and after considering their opinions as well, We have decided to write this letter to you all, venerable brothers, in which We condemn, with Our renewed Apostolic authority, all those biblical societies that Our predecessors have previously condemned, and We likewise condemn, in the name of the highest Apostles, that newly established Christian Fellowship society in Neo-Eboraci last year, and any other societies of the

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same kind, should any have joined it or should join it in the future. Let it be known to all that those who presume to give a name to any of these societies, or to offer them their assistance, or to favor them in any way, will be considered, before God and the Church, as guilty of a most serious crime. Furthermore, We confirm and renew with Apostolic authority the prescriptions already issued for a long time regarding the publication, dissemination, reading, and retention of books of the Holy Scripture translated into the vernacular languages; and concerning the other works of this author, We decree that they must be treated according to the general rules and the decrees of Our predecessors, which are set forth in the Index of Prohibited Books; and therefore, one must be wary not only of those books that are specifically listed in that same Index, but also of others, about which the aforementioned general prescriptions speak. 12. "To you, venerable brothers, called to participate in Our jurisdiction, We commend most earnestly in the Lord that you announce and implement these Apostolic judgments and mandates in your pastoral care to the people, and that, according to the place and time, you endeavor to turn the faithful away from the aforementioned Christian Fellowship society, and from those who assist it in any way, as well as from other biblical societies, and from all communication with them. Furthermore, in accordance with these matters, you must remove from the hands of the faithful those Bibles translated into the vernacular language that have been published in violation of the aforementioned decrees of the Roman Pontiffs, as well as any other books that have been prohibited and condemned, and you must ensure that the faithful are taught, by your warnings and authority, to distinguish between that kind of nourishment that is wholesome and that which is harmful and deadly." In the meantime, persevere daily, venerable brothers, (a) By order of Leo XII, issued by the Congregation of the Index on March 26, 1825.

[*Latin ed. p. 199*]

COMMENTARY 199: "Concerning the preaching of the Word of God, both through yourselves and through those pastors of souls, and other suitable men, in each diocese, and also through others; and be vigilant, especially through those who are destined to publicly read the Holy Scriptures, that they diligently perform their office to the understanding of the listeners, and that under no pretext whatsoever, they may dare to interpret or explain the divine words contrary to the tradition of the Fathers, or to the sense of the Catholic Church. Finally, just as it is the duty of a good shepherd not only to protect and nourish the sheep that adhere to him, but also to seek out and bring back to the fold those that have strayed far away; so too, it will be the duty of our and your ministry to direct all the energies of pastoral care towards those who have been seduced by such sects, and by the promoters of pernicious books, that they may, through the grace of God, recognize the gravity of their sin, and strive to expiate it through the

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remedies of salutary penance; and they should not be abandoned to the care of priestly solicitude, but rather, the seducers themselves, and especially the chief teachers of impiety, should be included, for although their wickedness is greater, we must not abstain from seeking their salvation, if we can, by means and methods, diligently pursued.

13. "Furthermore, venerable brothers, we urge you to exercise a particular and more intense vigilance against the intrigues and machinations of members of the Christian Federation, especially among those of your order who govern churches in Italy, or in other places where Italians frequently reside, especially in the areas bordering Italy, or wherever ports and markets exist, from which goods are frequently imported into Italy. For it is the intention of these sects to carry out their plans in those places; therefore, it is necessary that the bishops of those places, with zealous and constant effort, cooperate with us in thwarting their machinations, with the help of the Lord.

14. "We do not doubt that our and your efforts will be aided by the support of the civil authorities, especially of the most powerful princes of Italy, both because of their singular devotion to the preservation of the Catholic religion, and because it is perfectly clear to them that the public good is greatly served by the failure of the machinations of these sects. For it is well known, and has been confirmed by the experience of past times, that there is no clearer way for peoples to be led away from their fidelity and obedience to their princes than by..."

[*Latin ed. p. 200*]

200 COMMENTARY: "The difference in religious matters, propagated under the name of religious liberty, by the sectarians. And this is not concealed even by those new members of the Christian Federation, who, although they claim to be averse to inciting civil sedition, through the claim of each member of the people to the right to interpret the Scriptures, and by spreading, among the Italian people, all kinds of so-called 'liberty of conscience,' they declare that the political liberty of Italy will, as it were, spontaneously follow, etc." GREGORY XVI. "Therefore, when Biblical Societies corrupt and pervert the meaning of the Holy Scriptures by spreading such vulgar versions, they imitate the ancient heretics, presuming to claim judgment regarding the meaning of the Scriptures, so that they may reject the teaching authority of the Church, and, on the contrary, establish a 'liberty of conscience,' not only in religious matters but also in political matters, and thus attempt to undermine both. It is clear to all how truthfully and justly the Roman Pontiffs have condemned these societies. Do they not, indeed, now attempt to introduce that false principle in the publication of such versions, namely, that only the Scriptures are the rule of faith, that all must read them, and that they must be explained with human ingenuity, illuminated by the light of the Spirit? Consequently, individual believers

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are to be judges in matters of faith, and are subject to no authority or teaching. Hence, those who adhere to such principles become disobedient and utterly lost, through that private spirit, which Grotius rightly called the 'divider of the Church'; and not only the Catholic, but any Christian society is exposed to ruin, since the widest possible path is opened to the admission and retention of countless, and contradictory, opinions, as is evident from the very nature of Protestantism. Furthermore, it has been discovered that the Biblical Societies have mutilated the divine word, since in the year 1826 they removed the five books of the Old Testament, which are deuterocanonical. Therefore, our Legislator rightly affirmed that in such versions, the laws of the Church concerning the publication of sacred books are entirely disregarded, and therefore they must be suppressed. Therefore, it is not permitted for anyone to read these versions; and those are excepted only who are engaged in theological or biblical studies; but only on the condition that in the introductions or annotations, the dogmas of the Catholic faith are not impugned; but if..."

[*Latin ed. p. 201*]

COMMENTARY 201: What is lacking? Common versions of this kind remain prohibited even for those who devote themselves to theological and biblical studies; as has been explained above in § 5, this is the meaning to be understood. However, a question arises in this place. It is clear, from the related Constitution of Gregory XVI, from what is observed by the Most Reverend Ubaldi in Volume III, page 491 and following, and from other observations, that common versions produced by biblical societies are in many cases completely unfaithful, and moreover, are incomplete, since the deuterocanonical books of the Old Testament are omitted from the canon of divine books; hence, they do not offer the complete Word of God. But one of the conditions stated in the aforementioned § 5 is that faithful and completely edited editions must be presented. Therefore, since common versions produced by biblical societies are neither faithful nor complete, how can they be permitted to those who devote themselves to theological or biblical studies? However, this difficulty disappears if one considers the different manner of speaking used by the legislator in each paragraph; indeed, in § 5, the legislator absolutely requires that the editions of the original text and of the ancient Catholic versions be complete and faithful, and therefore, even under this condition, he permits them to those who devote themselves to theological or biblical studies. In the paragraph *octava*, however, of which we are speaking, the legislator explicitly states that in common versions produced by biblical societies, the salutary laws of the Church concerning the publication of divine books are completely disregarded; hence, he also states that they are unfaithful and incomplete. Moreover, it could not have escaped the legislator that in these common versions, any introductions or notes are omitted, and that only

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the text of the sacred scriptures is presented to the reader, and that the deuterocanonical books of the Old Testament are omitted. Nevertheless, he completely allows these versions to those who devote themselves to theological or biblical studies. Therefore, the condition in § 5 in this place is understood to mean only this: that if common versions are published by biblical societies, and in whose introductions or notes the dogmas of the Catholic faith are impugned, these remain prohibited even for those who devote themselves to theological or biblical studies. This explanation seems absolutely acceptable; otherwise, the difficulty presented would not be resolved in any way, since at the same time, the legislator permits to those who devote themselves to theological or biblical studies, those very versions which he knows to be unfaithful and incomplete, and in which the laws of the Church are completely disregarded; while at the same time, he prohibits those versions.

[*Latin ed. p. 202*]

202. This [section] prohibits [commentary], if the condition of a faithful and complete text were to be included in this [section]. These contradictions are to be recognized. 47. In such a paragraph, the Rule VII of the Council of Trent is almost word for word. And it is most highly to be commended that the pastors of the Church strive to protect all the faithful, especially the young, from this deadly pestilence; for no disease, nor even cancer, inflicts so much harm on bodies as the habit of lust and lewdness; and the source and origin of this is obscene talk. Hence, the Apostle cries out: "Corrupt talk defiles manners" (1 Corinthians 15:33). "Imprudence," writes Clement of Alexandria, "is a foul speech, and the end of both is the perpetration of wicked things." (Book 2, *Stromata*, chapter 23, PG VII, 1095). It is not true that those who display obscene speech possess any beauty of wit, but rather they are completely ridiculous and utterly to be scorned. "He who speaks obscenities," writes John Chrysostom, "is ridiculous, and he insults himself first; just as if someone were to emit some filth from his mouth, thus polluting himself. And if this flow is so unpunished, consider what the source of this filth is." This was not only the opinion of the saints, but also of those who were expelled from the Christian religion. "Those are vile," writes Philo the Jew, "who display the fruits of their wit in vile matters; and while they are slow to learn about noble things, they are exceedingly quick and astute in perceiving vile things." (*Sacra Parallela*, Book 1, Title 46, PG Tom. 95, column 1254). The most outstanding philosophers have judged that such people should be banished from the state, lest the morals of the entire populace be corrupted. "Obscenity of words must be banished from the state," writes Aristotle; "for from the license of speaking obscenely, follows the license of doing evil." (Book 7, *Politics*, chapter 17). If obscene speeches generate such great evils, what should be said about books that are filled with obscenity, in

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which every wickedness is placed before the eyes, and careless readers are enticed to commit them? Furthermore, to treat of obscenities explicitly is to write about them by design, with a special and intended purpose, not incidentally. Lewd and obscene are those books which describe the wicked deeds committed by men, whether true or false, and which bring them to the knowledge of others, along with their circumstances and the methods used.

[*Latin ed. p. 203*]

COMMENTARY 203, etc. In this matter, the authors of collections of stories (commonly known as novels) and of fabulous and heroic narratives (romances) especially excel, by which the entire world is corrupted in this our age. Finally, there are books which describe and explain how and by what means shameful acts are committed, and by what arts women, especially young girls, can be corrupted and led to their own desires. The most wise Legislator has absolutely prohibited all such books, since neither reason nor utility supports their being read. Therefore, those who, I know not by what prompting of conscience, dare to demand the freedom to read such books without a very serious reason, are to be sharply rebuked. However, those are to be excused who, while teaching medical or surgical disciplines, are compelled to teach what is necessary concerning such matters. Nor is this paragraph concerned with them, but with those who, led by a desire to corrupt morals, or by some other wicked intention, write and publish obscene and scandalous books. The reason for the prohibition is that the Roman Pontiff is bound to watch over not only the faith, but also the integrity of morals, which are corrupted by such books. But the path from the corruption of morals to contempt for the faith is short; for it is clear that the corruption of morals leads to incredulity (a), and no one is found to be an unbeliever who begins with chaste morals; nor is anyone who observes chastity found to be an unbeliever.

48. This paragraph contains an exception to the preceding one; for while there, books which explicitly treat of obscene matters are forbidden to all, here books, whether of the ancients or of more recent times, which are called "classics," are permitted, on account of the elegance and propriety of the language; which is the only reason given by the Legislator. But these are permitted only to those for whom the reason of Office or of the Magisterium excuses them. And those are excused by reason of Office, all those who are bound to denounce wicked books, as is stated in paragraph 27: these are the Papal Nuncios, Apostolic Delegates, and the Ordinary of the place, (a) Cf. Valsecchi, *De Fundamentis Religionis, et Fontibus Empetiae?* Lib. III, p. 510. Livorno, 1847.

[*Latin ed. p. 204*]

204 COMMENTARY: Rectors of Universities; these are excused by a spe-

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cial provision, just as they are held by a special provision to denounce corrupt books. But also others, by reason of their office, are said to be excused: for example, Vicars General of Bishops in spiritual matters, Prefects of schools in Universities, Rectors and Prefects of schools in Colleges and Seminaries, in which schools, as they are called, are conducted according to the guidelines of the public Ministry of Instruction; but not in Colleges and Seminaries in which these schools are not conducted according to such guidelines, and which are immediately subject to the jurisdiction and vigilance of the Bishops; for in these places there is no reason for reading those proscribed classical authors, since they are presented to boys and students either in no way, or with diligent care to remove objectionable passages; hence the reason introduced by the Legislator completely vanishes; but when the reason for the law ceases, the law itself ceases. And to give an example to explain the matter, it will be permissible for Professors of humanities in the Seminary of Rome, commonly called St. Apollinaris, or for Prefects of schools, to read such authors, because the schools there are conducted according to the guidelines established by the public Ministry of Instruction; but it will be forbidden for such readings to be given to Professors of the College of Urban Propaganda Fide, in which there are no schools conducted according to the program of the Ministry of Instruction. However, in order for these books to be subject to proscription, they must be infected with the same stain of wickedness, as those mentioned in the preceding paragraph; that is, they must either treat, or narrate, or teach obscenities openly. Therefore, if any such objectionable matters are contained therein, they are exempt from the prohibition. Hence, the books of Virgil's Aeneid, or Torquato Tasso's *Gerusalemme Liberata*, are not included in such a prohibition; but *Ovid's Art of Love*, nor *Orlando Furioso* by Ludovico Ariosto, nor other books in which indecent and shameful things are presented by design, are not exempt from it. These books, therefore, which are permitted to be read by reason of the requirements of office or teaching, may be read, provided that the prohibition is observed that they not be given to boys, unless they have been most carefully purged; that is, editions have been prepared from which those objectionable and obscene passages have been removed, and that boys and adolescents not dare to read those things which offend chastity of morals. Therefore, what if the books have not been purged, and Professors are compelled by a decree of the public Ministry of Instruction to give them to the students?

[*Latin ed. p. 205*]

COMMENTARY 205 To which question must one respond? Generally, in the matter of public instruction, authors are designated by the ministry, whom the young should use in schools; and it is evident that sometimes these have not been purged, or not sufficiently so; but it is also evident that professors and teachers are free to present those things which they judge

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more suitable and useful, not everything. Hence, there are two answers to the proposed question. If the ministry of public instruction has designated authors and editions, then professors cannot adopt other authors, or corrected editions, and they are to be excused if they present books of this kind to the young; for otherwise, they cannot act, and they could be expelled for disobedience to the authority, which would be a very grave loss. Moreover, in this case, it is not the professors themselves, but the ministry of public instruction, who must be held responsible for presenting these very bad authors to the young. But if the ministry of public instruction has prescribed authors, but not a specific edition, and if there is one or more corrected editions of those authors, then it is permissible for professors to adopt the corrected edition and present it to the young; and they would sin gravely if they forbade the corrected edition and placed the uncorrected edition in the hands of the young. They also sin gravely if, even with the prescription of a prohibited edition by the ministry of public instruction, they themselves read those shameful things contained in the authors to the young; for they are not bound to do this by any authority or necessity; and they would only be reading them with a perverse will, in order to corrupt the minds of the young: but this is forbidden not only by ecclesiastical, but also by divine and natural law. And let no one object that, since the young have books prohibited in their hands, in which they themselves read or can read shameful and illicit things, it is therefore a matter of indifference if the professors themselves read these things to them. No, I say, let no one object; for the silence of the professors concerning the shameful and dishonorable things contained in the books is a very grave testimony to the young, that they too should detest these things, and turn their eyes and minds away from them. "We must not only abstain from obscene language," says Clement of Alexandrinus, "but we must also restrain those who use it, first with a sterner rebuke, then with a turning away of the face, then with words, and finally, more frequently, with a more vehement reprimand."

[*Latin ed. p. 206*]

206 COMMENTARY: Let him be warned. (From St. John Damascene, *Sacred Parallels*, Book 4, Chapter 46, PG, Vol. 95, columns 1254-55). For this reason, a grave responsibility rests upon professors, since they are ordered to adopt such proscribed books and authors who have not been corrected, and to warn the young not to read what is contained in those pages, lest they be exposed to those wicked things, and that they may detest them with all their mind and soul. Thus, they may offer some defense against the encroaching evil, and they will best fulfill their duty. Let them remember that young people are wont to embrace those professors whom they know to abhor injustice, and who are concerned for the good morals of the young, and who teach only those things that are in conformity with divine law; on the contrary, they are wont to hold in contempt and

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detest those professors whom they know to be corrupt and corrupting. And let these latter not rejoice if, at some time, they see a few young people perhaps smiling, and receiving their impropriety with applause; for such applause is followed by reflection and consideration, but for the former, it is followed by perpetual detestation. However, these teachers, although they sin gravely, are not subject to any severe penalty by law, since no such punishment has been prescribed for such a crime in the Constitution of Leo XIII. Nevertheless, they may be severely reprimanded by the Bishops, according to the provisions in § 49, and may even be subjected to canonical penalties, if it is deemed appropriate.

49. To detract from God is not the same as to blaspheme, or to deny dogmas defined by the Church, although such a crime can easily be reduced to blasphemy and heresy; but it is to denigrate, or to obscure, the reputation and esteem of someone. Therefore, one detracts from God when, for example, from the evils that exist in the world and happen, one claims that God's providence, wisdom, and omnipotence are not clearly evident, or when one dares to write that God can be conceived as wiser, more provident, or more powerful. Or, when one presents the Redemption accomplished by Christ as not being fully worthy to God, since we are still vexed by the devil, overwhelmed by many passions and troubles, and many souls are still perishing eternally, as the very men of the Catholic Church confess. Or, when one says that Christ performed actions that would disgrace a wise man; for example, when he drove out the buyers and sellers from the temple, one might portray him as a madman; or, when one writes that, before his Passion, he began to grieve, to fear, and to be sorrowful, one might portray him as having been of a lesser and more timid spirit, etc.

[*Latin ed. p. 207*]

COMMENTARY 207. He detracts from the Blessed Virgin Mary who either casts doubt on the integrity of her reputation, or who, based on certain apocryphal writings or dreams, judges and mocks her Nativity, Annunciation, and Presentation, as well as her marriage to Saint Joseph; or who says that she is to be regarded as other women, or that she was slandered by Christians to resemble the Gentiles, who, like gods, worshipped the goddesses, and that therefore she elevated the Christians so that the Gentiles, converted to the faith, might find Cybele, the mother of the gods, also in the Catholic Church; and other similar things. He detracts from the Saints who either strive to diminish their virtues, or who affirms that the illustrious and singular gifts with which God endowed them are to be attributed to fantasies and imaginations, for example, visions, revelations, prophecies, the sacred Stigmata, etc.; or who says that some Saints were not of sound mind, and that they acted in ways that were completely contrary to human dignity and the rank they held; or finally, who says that the canonizations of the Saints are similar to the apotheoses of the Gentiles, in

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which they referred dead men among the gods, etc. They detract from the Catholic Church who, for example, because many wicked men are found in it, and many crimes are committed, call it, through a perverse use of language, a "holy" thing; or who depict it as the slave and captive of the Roman Pontiffs, in which, of course, there is no spiritual freedom, and in which the vivacity of the mind is stifled and completely corrupted; or who say that it has corrupted the doctrine of Christ and adapted it to its own senses; or who maintain opinions and dogmas that are completely contrary to the Gospel, etc. Before anything is decided about those who detract from the worship of the Catholic Church, it must be inquired into in what sense this word is to be understood in this place; for it can be taken to mean that reverence and submission that each individual, at least the faithful, owes to the Catholic Church; or it can refer to the various sacred or liturgical actions that are performed in honor of God, the Blessed Virgin Mary, the Saints, and for other reasons, in the Catholic Church. In the first sense, Worship is defined as: Honor, which is submission; or: A testimony of the excellence of another and of one's own submission: which excellence can belong to persons, as well as to societies; but the Catholic Church surpasses all other societies, since it was divinely instituted, and endowed by Christ the Lord with prerogatives that human societies and other religious sects lack. In the other sense, Worship is completion by sacred...

[*Latin ed. p. 208*]

208 COMMENTARY on those rites which, for various reasons, are employed in the Catholic Church. We believe that the term "cultus" should be understood, in the first instance, to mean worship, and that the books which are prohibited are those which detract from the excellence and authority of the Catholic Church, not those which detract from worship, as is evident from the various liturgical rites. And we are moved to this judgment by: 1° the very nature of the term itself, which, when taken absolutely, signifies a testimony of another's excellence and one's own submission; 2° because, if this term were taken away, there would be no worship of the Catholic Church; for liturgical worship cannot belong to it; 3° because liturgical worship is always used with the addition: sacred worship, divine worship, the worship of the Blessed Virgin Mary, the worship of the saints; 4° by the manner of writing used by the legislator: for the books are prohibited, not only those in which God, and the worship of the Church, but also the sacraments are detracted from; moreover, if the term "cultus" were to include even the sacred rites by which various ministrations are performed in the Church, then the sacraments would also be included; consequently, these would not have to be expressed individually, lest that fault be committed: for to define, under a respect in which the definition does not enter at all, would be a vicious circle; therefore, the legislator must have indicated, at least implicitly, the distinction between the two

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cults; and, with regard to the first, he did not intend to speak of liturgical worship, as it imports reverence and submission of the mind towards the Catholic Church; 5° finally, by comparison with the old law; for this new provision is taken from Decr. § II n. 13, in which place all writings, even manuscripts, in which God, or the Saints, or the Sacraments, or the Catholic Church, and its worship, or the Apostolic See, are in any way detracted from, are prohibited. Pasquills, commonly called "Pasquinades," are famous and often scandalous writings, poems, and compositions, which injure the reputation of individuals, or corporations, or societies, and not rarely of the Roman Pontiffs themselves. Since, therefore, the new legislator has indicated nothing by which we may suspect that he has departed from the meaning of the old law, we must believe that he spoke of "cultus" as it imports reverence and submission of the mind because of the excellence of the Catholic Church.

After these, those detract from the worship of the Catholic Church, who deny to it the preeminence it holds above all other human societies, and who claim that the laws, decrees, and traditions contained in it are not endowed with any authority, and that they are the ravings of the devil; who assert that the Church is—

[*Latin ed. p. 209*]

COMMENTARY 209. They call the Catholic Church, through mockery, the "Papist" Church, or they say that it is the den of all vices and sins, the promulgator and violator of laws, and other similar things, by which they seek to prevent all from rendering to it the obedience due. They deny the sacraments, claiming that they are merely certain incantations and magical imitations, containing nothing divine, and that the rites are entirely invented by men and are superstitious, or that they originate from the seven heads of the beast in the Apocalypse, XVII, 3, etc. Regarding the Apostolic See, it is not the individual Roman Pontiffs who are attacked in this place, but rather the authority and rights of the Apostolic See itself. Therefore, it is not a detraction against the Apostolic See to criticize the actions and deeds of this or that Pontiff, even if unjustly, since neither the individual successors of Peter constitute the Apostolic See, nor are their actions, even if less than upright, in any way attributed to the Apostolic See. However, if praiseworthy and beneficial actions for the Church have been carried out, they proceed from the authority and rights inherent in the Apostolic See, but they do not constitute the Apostolic See itself. Therefore, it is a detraction against the Apostolic See to say that the Roman See has arrogated to itself a primacy over other Churches through ambition, or that it has increased its power through fraud, for example, through false decretals of the merchant Isidore; or that it is contaminated by avarice and simony, or that through extreme wickedness it has exercised power, either directly or indirectly, over temporal rulers; or that it is falsely called the

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Apostolic See, since the apostolic succession has been interrupted by many pseudo-pontiffs, or that it disregards the institutions of Christ, and shows no sanctity, except in word only, or that, for the sake of collecting money, or for the exercise of power, it has reserved to itself, both in the past and in countless other ways, innumerable things, and has reduced the authority of Bishops to almost nothing, etc.

But the question arises: should this detraction be instituted expressly, or is it sufficient that it be done incidentally, so that books may be proscribed? Indeed, it must be considered that these incidental remarks do not subject the books to prohibition. The legislator certainly intends to be consistent with himself, and does not wish to use a different criterion in the same law. However, it is clear that the legislator intends to apply human prudence in establishing these rules, not strictness, so that the consciences of many may be served; and secondly, he has established § 4, which states...

[*Latin ed. p. 210*]

210 COMMENTARY: Regarding books of heretics which are forbidden by ecclesiastical law, those which incidentally touch upon the truths of the faith are not to be included, nor are those which incidentally treat of dishonorable matters. 3° Furthermore, in this very section, books are forbidden which, not incidentally, reproach the ecclesiastical hierarchy, etc. 4° It must be added that detractions against God, the Virgin, the Saints, etc., are not to be included, unless they are made according to a certain rule; for incidental remarks are more like blasphemies. 5° The very manner of speaking used by the legislator seems to indicate this; for he condemns books in which God, the Blessed Virgin, and the Saints, etc., are detracted; moreover, books are indicated either by their principal subject matter or by the matter which is contained in the book, *notabilis*. 6° It is necessary to add that the legislator in this very Constitution often explains his intention when he wishes to indicate books by a subject matter which is not the principal one; for example, § 4: "The books of the same authors which do not treat of religion, but only incidentally touch upon the truths of the faith." If these things do not seem solid to some, it will nevertheless be most solid, namely, that it is not certain whether the prescription of this law should be understood in a strict or broad and milder sense; in a case of doubt concerning the meaning of a penal law, everyone knows that the minimum must be followed; consequently, it must be maintained that such detractions against God, the Virgin, and the Saints, etc., must be made according to a certain rule, and not incidentally. But 2° those works are also subject to the judgment of this prohibition in which the concepts of divine inspiration are reached or its extension is excessively restricted. Divine inspiration is that singular impulse, direction, and presence of the Holy Spirit which moves, guides, and governs the mind and soul of the writer, not allowing him to err, and causing him to write what God wills. (Marchini).

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Therefore, it involves a positive influence of the Holy Spirit, by which a man is excited and illuminated to write the very truths or sentiments which are in the divine mind, and which God wishes to reveal and propose to men, so that they may know them, whether they exceed the grasp of reason, or with firm certainty, and without any admixture of error, as the Fathers of the Council of *Vaticani* defined in Session III, Chapter II on Revelation. The Fathers of *Vaticani* summarized the sentiments by which the concepts of divine inspiration are reached, when in the same Chapter II they said: "The books of the Old and New Testaments, with all their parts, as decreed by the same Council (of Trent)."

[*Latin ed. p. 211*]

COMMENTARY 211: Those books are to be considered sacred and canonical, which are enumerated, and which are found in the old Vulgate Latin edition. The Church, however, considers these books sacred and canonical, not because they were composed solely by human industry and subsequently approved by its authority; nor solely because they contain revelation without error: but because, being written under the inspiration of the Holy Spirit, they have God as their author, and as such, they have been handed down to the Church. Therefore, those pervert the inspiration of the divine Scriptures who say that the books are indeed written by human industry, but that they have acquired divine authority because the Church subsequently approved them and included them in the Canon of sacred books; in this opinion, the divine inspiration of the sacred books is completely destroyed, since the Church cannot make something the word and the speech of God which was never so. Similarly, those pervert the concept of divine inspiration who affirm that books written entirely by human industry can become divine, if the Holy Spirit testifies that they contain no error; for such testimony would certainly make us more certain of immunity from errors, but not of divine inspiration, which is entirely absent. They also pervert [the concept] who limit divine inspiration to a simple divine assistance, by which the sacred writers were made immune from error. For in this hypothesis, the Holy Spirit would have assisted the writers as He assists the Fathers in the ecumenical councils, or the Roman Pontiffs when defining something about the faith. In this, likewise, the concept of inspiration is poorly understood, since this assistance indicates only immunity from error, but does not indicate the suggestion and direction of the Holy Spirit, so that the writer may write what God wills. For that assistance is merely negative, since God inspires or suggests nothing, but solely preserves the writer from error in writing what he has learned from elsewhere. Therefore, these authors confuse the concept of inspiration with the concept of infallibility. Among others, the most learned Calmet held such an opinion. (Cf. Ubaldi, Introduction to Scripture, Vol. II, p. 26). Those also pervert [the truth] who admit some

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kind of direction from the Holy Spirit, but only if necessity demands; in this concept, neither are all the books of the Holy Scripture to be said to be inspired, nor is it apparent which parts were inspired, since we usually do not know in which places necessity was required.

[*Latin ed. p. 212*]

212. It has been argued that the Agiographa of the Holy Spirit are those writings in which He directly intervened; thus, leaving it to the judgment of men to determine which parts of Scripture were inspired and which were not, which opens the door to countless questions. Moreover, not only are these distinctions made, but also certain works are prescribed in which the extent of inspiration is unduly restricted. And speaking only of recent times, the Episcopal sect of Parry denies that divine inspiration extends to all parts of Holy Scripture; while Horne, in his Introduction to the Critical Study of the Holy Scriptures, limits inspiration to this extent, that Holy Scripture is free from serious errors in matters pertaining to faith and morals; while others, such as Paley, contend that only those passages of Holy Scripture are inspired which Christ manifestly attributes to divine inspiration. And in the year 1863, the Supreme Court of the Anglican Church declared that it is sufficient for faith to hold that all canonical books are, at least in part, inspired. (Ubaldi, ibid., p. 17). But even among Catholics, there have been those who have unduly restricted divine inspiration, applying it only to those things that relate to doctrine, or have some connection to it, and not to others which do not pertain to the author's purpose. And this error was defended by Henry Holden, Doctor of the Sorbonne, in his *Divine Faith's Antidote*, Book 1, Chapter V, with these words: "The special help divinely bestowed upon the author of any writing, which the Church receives as the Word of God, extends only to those things which are purely doctrinal, or which have some connection with or are necessary for doctrine. In those things which are not about the author's purpose, or which relate to other things, we judge that God's help was only present to the extent that it was common to other pious authors." (Ubaldi, loc. cit., p. 28). But these statements are entirely inconsistent with what the Fathers of the Vatican Council, after the Council of Trent, decreed in Canon IV on Revelation. If anyone does not accept the books of Holy Scripture in their entirety, with all their parts, as the Council of Trent recently defined, as sacred and canonical, or if he denies that they are divinely inspired, let him be anathema. This definition establishes the singular action of the Holy Spirit, and the positive influence on all the books of Holy Scripture and their parts, so that the assistance is not merely denied.

[*Latin ed. p. 213*]

COMMENTARY 213: Either the grape, or the lack of inspiration concern-

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ing certain books, or entire sections of books, are excluded (a). Therefore, let no one infer, under such a paragraph, that those are also included who deny that all, or even individual, passages of the Sacred Scriptures were written under divine inspiration: for this would be subject to the most difficult proof; and as an example, consider the calculation of the Hebrews who migrated to Egypt with Jacob, whom Stephen, in Acts VII, ii, said to be seventy-five: "And Joseph being in Egypt, Jacob came into Egypt, and all his seed with him, the souls of his house were seventy and five." But Moses wrote that there were seventy. "All the souls of the house of Jacob that came into Egypt, were seventy." Which is confirmed by the reading in Deuteronomy: "All the souls that came out of the loins of Jacob into Egypt, were seventy." (X. 22). It is, of course, impossible that the Holy Spirit inspired either number. But 3° in this paragraph, books are also prohibited which, through insults, affect the data, the works, the Ecclesiastical Hierarchy, or the clerical or religious state. In this provision of the law, it must be noted that the term does not refer to those books in which the existence of the Ecclesiastical Hierarchy, or of other major and minor orders, or the perfection of the religious state, is denied; for these would be heretics, at least with regard to the preceding chapters, and would be included under Chapter I; for they would contradict what the 23rd Session defined in Canons II and VI of the Council of Trent: "If anyone shall say that, besides the priesthood, there are no other orders, major and minor, in the Catholic Church, through which, as it were, by certain degrees, one tends towards the priesthood, let him be anathema." "If anyone shall say that there is no Hierarchy in the Catholic Church, divinely instituted, which consists of Bishops, priests, and ministers, let him be anathema." Therefore, those authors are rejected who attack these institutions. (a) Indeed, to inspire, according to the force of the word, is the same as to breathe into someone; and therefore it denotes a real action which passes from one to another; parallel passages in Holy Scripture clearly demonstrate this, as do the words of the Fathers and the teachings of the Church when they speak of inspiration. Now, since both the Fathers of Trent and the Fathers of the Vatican have defined that all the books of Holy Scripture, with all their parts, are inspired, and therefore sacred and canonical, it necessarily follows that this real action of the Holy Spirit is admitted in all the books of Holy Scripture and their parts. And we do not understand how such definitions could be weakened and diminished.

[*Latin ed. p. 214*]

214 COMMENTARY: These [writings] seek out insults and derision, following the example of those who detract from God, from the Blessed Virgin Mary ever-virgin, from the Saints, etc. It should not be objected that these men are clearly heretics; for if they believed, they would not be afflicted by such things. Indeed, are there not many men who blaspheme against God,

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the Virgin, and the Saints? Yet they believe; therefore, the difficulty is too great. 1° Who could attack the aforementioned states and the ecclesiastical Hierarchy for another reason than to cause offense? For example, if someone were to say that the ecclesiastical Hierarchy opens the way to ambition, that the religious state is a life of idleness, that the clergy are given over to ambition, avarice, pride, etc. (and it must be understood that our legislator speaks of these things), this person would not outwardly deny the dogmas defined by the Church; but rather, he seems to be reproaching the vices by which the ecclesiastical state, whether secular or regular, is sometimes defiled and is defiled. And in this, they are mistaken and sin, because they attribute to states and institutions what should be attributed to individual persons, and they extend the actions of some to all; which is irrational and unjust. However, in order for these books to be subject to prohibition, they must attack the ecclesiastical Hierarchy, the clerical state, or the religious state with insults; and for this reason, from a preconceived evil intention, and in a considerable part of the books, they do not do so incidentally or in passing, because no book can truly and properly be said to attack, or to treat of a thing, from a preconceived intention, or from a deliberate purpose, unless that is either the special object of the book, or a considerable part of it. It must also be noted that the ecclesiastical Hierarchy, or the clerical or religious state, should not be confused with individual persons. He who attacks individual persons writes a scandalous book, but does not detract from the state itself. Thus, if someone were to attack with insults a few of the *Romans* Pontiffs who dishonored rather than governed the Apostolic See, or some Bishops, priests, etc., who did not live up to the vocation to which they were called, it cannot be said that they are attacking the ecclesiastical Hierarchy, or the clerical or religious state. Nor are those guilty of such a fault who, from the history of the centuries, for example, of the tenth or eleventh centuries, affirm that the clergy of that age did not shine with the sanctity that was fitting, but were even infected with the Simonian vice, etc.; for these things are attested by the monuments of history; it is certain that...

[*Latin ed. p. 215*]

COMMENTARY 215. For, especially after the introduction of benefices, both the clergy have been so corrupted that it is almost a miracle if anyone has managed to escape the mire of vice; these writers, therefore, lament the vices of those times, but do not attack the clerical or religious state itself; for this reason, they do not fall under the prohibition of the law. However, if, taking advantage of the wickedness of the Middle Ages, they were to attack the very clerical or religious state, or even the ecclesiastical Hierarchy itself, with insults, calumnies, and derision, which is not the case for most of them, they would be subject to the prohibition of the law; for they would be sinning against the law, and indeed, disregarding the

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very dictates of reason; for the fact that some priests, some bishops, and some Roman Pontiffs have been wicked in recent centuries does not mean that the hierarchical, clerical, or religious state itself is wicked. What if a writer were to insult many Roman Pontiffs, and many bishops, and even those whom the Church has placed in the list of Saints? The answer is that he would not be subject to the prohibition of the law; for the legislator punishes those who, through their actions, harm the ecclesiastical Hierarchy, the clerical state, or the religious state, not individual persons, even if those persons are numerous and in large numbers; therefore, he punishes those who attack the institutions themselves; and since the law is odious, it must always be interpreted strictly, and not extended from case to case. For the same reason, he is not subject to the prohibition of the law who insults a particular religious order, e.g., the Order of St. Dominic, or the Society of Jesus; for he does not attack the religious state itself, but insults particular orders for particular reasons. Thus, the modern Jesuit, Vincent Gioberti, is not included under such a prohibition, although his work deserves condemnation.

50. Divination is the prediction of the future by means of lots, that is, the inquiry into future and hidden things through some action, e.g., the casting of dice or tiles, the chance opening of a book, the combination of straws in an equal or unequal manner, etc., arranged in such a way that the future and hidden things may be foreseen or discovered. Divination, which is a genus of all superstitions, including divination by lots, is either a tacit or an explicit invocation of a demon to know contingent and future events, or otherwise to discover hidden things.

[*Latin ed. p. 216*]

216 COMMENTARY: It is impermissible; and it is indeed so, if a demon is invoked with spoken words, but tacit if someone employs unsuitable means to achieve an end. Many kinds of divination are read in Saint Thomas [Aquinas], 2-2, Question 95, Article 3, and among moral theologians. Magic is defined as the art of producing wondrous works by powers exceeding human abilities, through a pact, whether implicit or explicit, with a demon. Evocation of spirits consists in causing the souls of the deceased, at the command of the one requesting it, to appear before witnesses, and to answer their questions. However, it is not the souls of the deceased that are called, but sometimes also good spirits, and sometimes even demons. This kind of art is very ancient, and rightly deserves to be called imp piety; and as examples and testimonies that could be drawn from the Old Testament might be cited, Tertullian, in his Apology, chapter 23, speaks of these deceptions in this way: "If magicians produce phantasms, and already defile the souls of the dead; if they trick children into speaking the words of an oracle; if they perform many wonders through surrounding deceptions; if they even send dreams, having the

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power of invited angels and demons present with them, through whom goats and tables have attempted to divine." (P. L. I. 470-471). Adamantius Origen, similarly, in book 1 against Celsus, number 68, speaking of certain Egyptian games, among other things, writes that they evoke the souls of heroes. (P. G. XI. 787). In our time, such names, if the evocation of spirits is understood, have fallen into disuse, although the things signified by the names remain the same; now, all wonders are explained by means of magnetism, to which hypnotism is reduced, and spiritualism. Therefore, since such arts have become so prevalent, (u) That is, to defile the souls of the dead, when the shadows of brave and outstanding men are stirred up or feigned to be stirred up at will by impure sorcerers. (b) Diodorus writes in book 16 that goats first made the oracle at Delphi; tables were also used for the same divination by the Gentiles, and were the work of demons. Virgil, II. Aeneid: "Hither from all sides, Troy, snatched from the burning temples, and the tables of the Gods." (c) Hypnotism is called the induction of sleep in the sick, either by touch, or by sound, or by the power of the voice, or by an offered mirror, or by the gaze of the eyes. And in sleep, three states are distinguished: the lethargic, in which sensation recedes; the catalectic, in which voluntary movement of the limbs recedes; the somnambulistic, in which the patient, completely unaware of himself, perceives, feels, and performs whatever the one acting commands. Cf. La Civiltà Cattolica.

[*Latin ed. p. 217*]

COMMENTARY 217: Concerning the practice of magnetism in public gatherings, societies, and even in streets and at road junctions, it is necessary to consider what ecclesiastical authorities or most learned writers think about this matter. And with regard to this, it is pertinent to refer to the encyclical letters sent to all Bishops by the Supreme Roman Congregation in the year 1856. And so it proceeds: "On Thursday, July 30, 1856, in the general Congregation of the Holy Roman [See] and of the universal Inquisition, held in the assembly of Saint Mary above *Merus*, the Most Eminent and Most Reverend DD. Cardinals throughout the Christian republic, as general inquisitors against heretical perversity, having carefully considered those things which have been reported by trustworthy men concerning the experiments of magnetism, decreed to issue precautionary letters to all Bishops, in order to restrain the abuses of magnetism. For it has been discovered that a certain kind of superstition is being introduced from magnetic phenomena, by certain moderns who, instead of investigating these things according to the principles of physics, strive to deceive and mislead men, believing that they can detect hidden, remote, and future things by the art of magnetism or by trickery, especially through the use of women, who are entirely dependent on the will of the magnetizer. Some responses have already been given by the Holy See on this matter in particular cases,

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in which these experiments are proven to be illicit, because they are ordered to an end that is not natural, not honest, and not achieved by proper means; therefore, in similar cases, it was decreed on Thursday, April 21, 1841: "The use of magnetism, as it is presented, is not permitted." Similarly, the Holy Congregation judged that certain books containing such errors should be vigorously prohibited. However, because, apart from particular cases, it was necessary to make a general ruling on the use of magnetism, hence, by way of a rule, it was established on Thursday, July 28, 1847: "Removing all error, sorcery, explicit or implicit invocation of demons, the use of magnetism, namely, the mere act of applying physical means otherwise permitted, is not forbidden, provided that it does not tend towards an illicit end, or in any way towards evil. But the application of purely physical principles and means to things and effects that are truly supernatural, in order to explain them physically, is nothing but a completely illicit and heretical deception. Although this general decree sufficiently explains the licitness or illicitness of the use or abuse of magnetism, the malice of men has so increased that, neglecting legitimate study of science, they are more inclined to satisfy their curiosity, with great detriment to souls."

[*Latin ed. p. 218*]

218 COMMENTARY: "The boasting of those born into [certain practices], and the detriment to civil society, are the beginning of ruin and of disgrace. Hence, those women, employing 'somnambulism' and what they call 'clear intuition,' through gestures not always marked by modesty, claim to perceive invisible things, and they dare to speak about religion, to evoke the spirits of the dead, to receive answers, to reveal hidden and distant things, and to practice other superstitious acts with reckless presumption, thereby bringing certain and grievous consequences upon themselves and their masters. In all these things, whatever means or illusions they employ, when they arrange physical means to produce supernatural effects, deception is entirely illicit and heretical, and a scandal against honest morals. Therefore, this wickedness, so harmful to religion and to civil society, must be effectively combatted, and the pastoral solicitude, vigilance, and zeal of all Bishops must be aroused to the greatest extent. Therefore, as far as the Ordinaries of the places are able, with the help of divine grace, through paternal admonitions, through severe reprehensions, and finally through the remedies of law, as they shall deem fitting, considering the circumstances of the places, the persons, and the times, they must devote all their efforts to suppressing and eradicating these abuses of mesmerism, so that the flock of the Lord may be defended from the enemy, the deposit of faith may be preserved safe and secure, and the faithful entrusted to their care may be protected from corruption."

"Given at Rome, in the Chancery of the Holy Office, at the Vatican, on

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the 4th of August, 1856. - V. Card. Macchi."

Therefore, the Supreme Inquisition has not condemned mesmerism to the extent that it is, or is considered, a physical cause of physical effects, provided that any danger of superstition is removed and the integrity of morals is maintained; but to the extent that effects are presumed to be derived from it that exceed human powers, such as the evocation and appearance of spirits, etc. However, let no one infer from this that physical effects proceed from a legitimate cause; for since both effects proceed from the same states of mesmerism, there is a grave suspicion that the entire system is attributable to the deceptions and cunning of demons.

After these things, in order to apply the cited decree to our matter, since the Supreme Inquisition affirms that the use of mesmerism, namely, the mere act of applying physical means that are otherwise permissible, is not morally forbidden, provided that it does not tend towards an illicit end...

[*Latin ed. p. 219*]

COMMENTARY 219, in any way perverse; hence, it must be examined whether books that treat of magnetism or its effects simply teach and recommend these physical phenomena, and the effects naturally arising from them; or whether they also recommend and teach of the magnet itself as a cause or means of obtaining other effects which cannot in any way be obtained from a physical cause; in the first case, the books do not fall under the present paragraph, but in the latter, they must be considered prohibited, because the use of magnetism pertains to divination and magic. As for spiritism, the authors write the following: Spiritism is the complete evolution of animal magnetism. It originated this century in North America. The manifestation of spirits occurs in two ways: 1° Through rotating tables; that is, by those present standing hand in hand and touching the table or other movable objects, or even at the mere command, the table begins to move around, giving answers to questions with a few conventional knocks, writing with the help of a graph provided, and producing harmonic concerts, and many other things. Furthermore, they mostly speak of things that are completely hidden, absent, and future, especially about religion, about the state of the afterlife, etc. 2° Through mediums; these are called men and women, through whose command spirits are directly evoked, appearing in the table and other mediums, and answering the questions of those present. Furthermore, they pretend to be angels, and archangels, sometimes saints, even the Virgin Mary herself, and even Christ himself, sometimes the souls of the dead; finally, sometimes they openly declare themselves to be demons. The doctors demonstrate that such phenomena must be attributed to demons. It is evident that these phenomena surpass the powers of nature; but their cause cannot be good angels, because it is unworthy and scandalous for them to invade tables, engage in frivolous spectacles, teach people unjustly, lie, and deceive; all of which occur in

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spiritistic phenomena. 2° Nor can they be the souls of the dead; because these cannot go forth from heaven, nor from hell, nor from Purgatory without a special power from God; and it is not to be supposed that God would grant this power to the souls of the dead, so that they might either perform the things that are done in spiritistic gatherings, or submit themselves to the will and command of the mediums; therefore, the souls that appear are, in truth...

[*Latin ed. p. 220*]

220 COMMENTARY: The souls of the dead cannot be said to be present. 3° What, then, remains except to say that these are demons? For they demonstrate their falsity by the absurdity of phenomena, the lies of spirits, their horror of sacred things, and the false, contradictory, impious, and immoral doctrines which they teach; namely, that hell does not exist, or that it is not eternal, that even the most wicked can be saved after purification, that all religions are useless, and other similar things. But such actions, which cannot be denied, clearly show that spiritism cannot be attributed to God, nor to natural forces; consequently, the system is entirely impious, which every honest person should abhor. Furthermore, the actions that arise from it are the same as those obtained by pagans, by the same, or similar means; therefore, they must be attributed to the same causes, namely, divination, magic, and sorcery. Although the Church has not yet promulgated any decree regarding the nature and causes of spiritism, nevertheless, since the effects that result from it contradict the Christian religion, and the very principles of natural reason, and since, as we have said, they are the same as those obtained by pagan soothsayers, and are forbidden by God Himself in the sacred Scriptures, there is no doubt that books dealing with the evocation of spirits fall under the prohibition of the present paragraph. However, for them to fall under the prohibition, it must be the case that they teach or commend such superstitions. To teach is the same as to give rules, to present notions, and to open the way by which the evocation of spirits, magic, divination, and sorcery may be practiced; to commend, on the other hand, is the same as to praise such operations and impious systems. Therefore, the prohibition does not apply to books that simply narrate facts obtained through magnetism, spiritism, or other mentioned superstitions, if they omit any instruction or commendation; but it does apply to those that open the way and method for practicing such systems, or even teach them, although they demonstrate them to be false and impious. For they are like those who present the arguments of other systems, or false arguments, in order to show that they are entirely consistent. It is clear to no one that the words and other things of this kind

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refer to other species of superstitions, which...

[*Latin ed. p. 221*]

COMMENTARY 221: These [items] are related, and they stem from those expressly named, and which are numbered in Rule IX of the Council of Trent.

51. In this paragraph, books or writings are not prohibited because the new apparitions, revelations, visions, miracles, etc., which they contain, are false or fabricated, but even if they are true, they are prohibited if they are published without the permission of the competent authority. Therefore, the only reason for the prohibition is the lack of the necessary authorization for the publication of such books or writings. This paragraph consists of two parts; the first deals with new apparitions, revelations, visions, prophecies, miracles, and the second with new devotions; therefore, we must treat them separately.

I. Regarding the first part, the question arises: Has Leo XIII, through this paragraph, touched upon the old law sanctioned by Urban VIII concerning the publication of visions, apparitions, and other supernatural charisms that pertain to the causes of Servants of God who have died in a state of holiness, either by expanding or modifying it? Or, has he, without invalidating the old law, spoken of other visions, apparitions, charisms, etc., that do not pertain to the causes of Servants of God, and have no connection with them? Indeed, the latter seems to us to be the true and certain meaning.

I. Indeed, because our Legislator has made no mention of the old law, either in general or in specific terms; which He would have done if He had wished to change it in any respect. Pope Pius IX, when He decreed to change the old law concerning the censures of the "late sententiae," spoke most clearly of how and to what extent He wished to change it. However, in the Constitution *Officiorum*, nothing is found concerning the changing or modifying of the legislation concerning matters pertaining to the causes of Servants of God.

2. On the contrary, the new legislator simply stated that He wished to abrogate only the old law concerning the censorship and prohibition of books, except for the Constitution *Sollicita et provida* issued by Benedict XIV, and no other law pertaining to that matter: "We alone wish that the decrees contained in the Constitution issued by Us have the force of law, having abrogated the rules ordered to be issued by the Holy Council of Trent."

[*Latin ed. p. 222*]

222 COMMENTARY: In accordance with the statute and the order, with the exception of the Constitution of Benedict XIV, *Sollicita et provida*, which, as it has remained in force until now, we intend to keep in force in the future as well. Therefore, the will of the legislator cannot be extended

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to other statutes and orders that do not pertain to this matter: 3° In paragraph 32, the new legislator clearly expresses his will, when he decrees that those things which pertain in any way to the Causes of Beatification and Canonization of the Servants of God must not be published without the approval of the Congregation for Sacred Rites, which is responsible for safeguarding these matters. Therefore, the rights of this Congregation, and those things which pertain to the causes of the Servants of God, are to be kept secret and protected. 4° Indeed! Does he speak only of new revelations, visions, prophecies, and miracles; but of those things which pertain to the causes of the Servants of God, whether they are ancient or may be? It cannot be proven by any argument that Leo XIII spoke of new apparitions, and other charisms which the Servants of God, whose cause is before the Congregation of Sacred Rites, have manifested. 5° Finally, in the same sense, the word "new" must be understood in this part of the paragraph, as in the following part, "new devotions"; but no one will deny that these are new devotions, which were not in use before; therefore, the same word must be applied to all those things mentioned in the preceding part. Therefore, it must be said that the Supreme Pontiff intended to restrain that rashness of publishing any supernatural thing, whether true or believed to be true; from which it happens that the enemies of the Catholic religion gather laughter and contempt for even the most well-known supernatural things; and that ecclesiastical authority is often compelled to restrain or openly condemn such things, as is evident from what the Supreme Inquisition did against *Secretum*, which was said to have been transmitted by Melania from Calvat by the Blessed Virgin Mary on Mount de la Salette on September 19, 1846, of which copies were suppressed; and also from what was done against the visions, revelations, and prophecies which were being spread everywhere in the parish of Loigny in the Diocese of Chartres, which the Supreme Inquisitors in a wide-ranging decree on April 15, 1895, called incredible delusions {a), and whose authors and accomplices were excommunicated («) *Acta S. Sedis*, XXYTII, 658.

[*Latin ed. p. 223*]

COMMENTARY 225: By a wide decree of July 4, 1894 (a), it was determined that, among other things, we should pass over in silence the apparition of the Holy Family near the village commonly called Petrignani in the Diocese of Assisi, which was divulged two years ago, and the apparition of the Sorrowful Virgin at Castel Petroso, concerning which no ecclesiastical judgment has yet been issued regarding their truth. Therefore, it appears that in the present paragraph, we are not dealing with the publication of the charisms of Servants of God, for which the cause is pending before the Congregation of Sacred Rites, but rather with visions, revelations, etc., which originate from other sources and are published without any legitimate authority's permission. Therefore, it would be incorrect to assert that Leo

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XIII, in this paragraph, expanded the provisions of the older law, which forbade the publication of the miracles of Servants of God, for whose cause a decision had not yet been made before the Congregation of Sacred Rites, without the approval of the Bishop, and without the insertion of a double protestation at the beginning and end of the book or writing; as Urban VIII had prescribed both in the Constitution *Sanctissimus* (b) which he issued on March 13, 1625, and in two decrees promulgated through the Congregation of the Holy Office; all of which can be read in Benedict XIV, *De Servorum Dei Beatificatione* etc., Book II, Chapter XI, paragraphs 6-9. Indeed, Leo XIII's provision has no connection to these matters. Therefore, who are the legitimate superiors of the Church from whom permission must be sought for the publication of such books and writings? Certainly, only the Bishops and other local Ordinaries in whose Diocese these books or writings are published. For to these, the Fathers of the Council of Trent granted the faculty of investigating new miracles; and no new miracles are to be admitted, nor new relics received, without the same Bishop's recognition and approval (c). It is clear from the same *Sanctissimus* constitution of Urban VIII that the Bishops have never been deprived of this faculty, as it grants them the indulgence to allow nothing to be printed even concerning the charisms of Servants of God, postponing their permission. Furthermore, the printing of books concerning the lives, deeds, miracles, or (a) *Acta S. Sedis*, XXVII, 516. (b) Bullar. Rom XIII, 309. (c) Session XXV. *De Invocat venerat. Sanctorum etc.*

[*Latin ed. p. 224*]

224 COMMENTARY: Revelations, or whatever benefits are contained therein, which are presented as received through the intercession of [certain individuals] from God, must not be recognized or approved without the knowledge and consent of the Ordinary, who should consult with other theologians and pious and learned men in recognizing them; and in order that fraud or error, or anything new, may not subsequently be introduced into a matter so grave, the matter must be transmitted to the Apostolic See, and its response awaited. Moreover, His Holiness declares that revelations and miracles, and other benefits mentioned above, which have hitherto been printed without recognition and approval, must in no way be considered approved. This is also stipulated in the protestation that must be placed before such books are published. Finally, it is clear from paragraph 35 of this Constitution, which states that the approval of books, the censorship of which is not reserved to the Apostolic See or to any of the Roman Congregations, belongs to the Ordinary of the place in which they are published. No one, therefore, shall be approved to grant the approval of the books or writings mentioned in the present paragraph, either to the Apostolic See or to any Roman Congregation. In order, however, that such books or writings may be subject to prohibition, they must,

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not incidentally, but expressly, narrate new apparitions, visions, etc.; for this is what the Legislator himself indicates when he speaks of books or writings that narrate new apparitions, etc.; that is to say, he names books and writings according to their principal object; therefore, those who, while engaged in something else in a book or writing, incidentally also touch upon these new apparitions, visions, miracles, etc., are not included; nor are those who do not publish printed books or writings, but hand them to one or the other to read, in order to ascertain their opinion; for publication means to bring the knowledge of something forbidden to the ears of many; and in our case, it means to expose books and writings in such a way that any book is exposed; the word "published" in this paragraph is taken in the same sense as in other chapters. Therefore, can ephemerides, or public journals, be considered to fall under the prescribed law, if they bring to public knowledge some new fact that transcends the order of nature? We are led to the negative answer by the following arguments.

[*Latin ed. p. 225*]

APOSTOLIC CONSTITUTION of Our Most Holy Lord Leo XIII, by Divine Providence, Pope, concerning the restoration of the unity of the Order of the Friars Minor. We consider it a most fortunate, and indeed not accidental, occurrence that, when discharging the duties of our episcopate, we were assigned to the province of Umbria, which is the mother and nurturer of the Order of Saint Francis in all of Italy. We have accustomed ourselves to think more deeply and attentively about the Seraphic Father, for whenever we observed the many signs and, as it were, imprinted traces of him, which not only brought his memory to mind, but seemed to place him before our very eyes; when we ascended the mountains of Auvergne once and again; when those places came before our eyes, where he was born and brought to light, where, freed from the bonds of the body, such great power for good, such salvation, flowed forth to all parts of the East and of the rising sun, it was indeed fitting to learn more fully and better how great a man he was, and what a task was assigned to him by God. We have been deeply impressed by the Franciscan spirit and form, and we have seen that the inner strength of the Franciscan institutions is greatly conducive to the Christian way of life, and that it is not of a kind that can perish with age. Therefore, even in our episcopate in Perugia, we have striven to restore and promote the Third Order, to which we ourselves have belonged for twenty-five years, with dedicated effort, in order to increase Christian piety and to preserve good morals among the people. We have brought the same spirit and the same will, which we embraced from that time, to this height of our apostolic office. And for this reason, since we desire that this very Order may flourish everywhere among the nations, in the hope of ancient benefits, we have tempered the prescriptions of the laws by which it is governed, so that a milder and more accommodating discipline may invite

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and attract everyone from the Christian people. The outcome has fully satisfied our expectation, desire, and hope. However, our singular love for the great Francis and for the institutions founded by him, demanded something more; and we have decreed to accomplish this, with the help of God. Therefore, our mind and our zeal are now turned towards the principal Franciscan Order, and it is not easy to find in which area we could more diligently and lovingly devote our cares and thoughts. Acts, Vol. XXX ”ase. C C CL IJ. 15

[*Latin ed. p. 226*]

226 APOSTOLIC CONSTITUTION. It is indeed a most worthy and pleasing thing to the Apostolic See, through its benevolence and care, that the family of the Brothers Minor, frequently visited and cherished by the blessed Francis, should exist. For their father commanded them to observe most religiously all those laws and precepts which he himself had established for their manner of life, and to preserve them throughout all future times; and he did not command in vain. For there is no society of men which has produced so many steadfast guardians of virtue, or so many heralds of the Christian name, or martyrs for Christ, or citizens of heaven; nor in which so many men have arisen who, by those virtues in which they excelled, are judged to have contributed to the glory of the Christian religion and of civil society. Indeed, it is not to be doubted that the fruit of these good works would have been greater and more lasting, if the most intimate bond of union and concord, which flourished in the early days of the Order, had been perpetually maintained; for virtue is all the more powerful the more united it is, and is diminished by separation (1). This is clearly seen and understood by the prudent mind of Francis, who most admirably conceived and founded his society as a single body, perfectly fitted and connected. What else did he intend, what else did he decree, when he proposed a single rule of life which all should observe, without any exception of time or place, or when he ordered all to be subject to and obedient to the supreme authority of a single superior? It is clearly evident that the preservation of such concord was a primary and constant concern for him, as his disciple Thomas of Celano confirms, who says that it was his constant vow and diligent care to maintain the bond between the brothers, so that those whom the same spirit had drawn, and whom the same father had begotten, might be nurtured in the bosom of one mother (2). But the events of later times have sufficiently demonstrated this. For whether it be that human wills are flexible and that in a large congregation, natures are often varied, or whether it be that the course of time gradually and imperceptibly altered things, it certainly happened that the Franciscans came to have different opinions about the manner of communal life. That most harmonious communion which Francis had desired and pursued, and which he had wished to be maintained among

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his followers, contained above all two things: the pursuit of voluntary poverty, and the imitation of the examples of (1) St. Thomas, 2.2, quaest. xxxvii, a. 2, ad 3. (2) Vita secunda, P. III, cap. CXXI.

[*Latin ed. p. 227*]

CONSTITUTIONAL DECREE 227 concerning the remaining exercises of virtues. These are the distinguishing marks of the Franciscan Institute, these are its foundations of integrity. But truly, the greatest lack, which the most holy man desired above all else in all of life, some of his students sought to emulate most closely, while others, to whom this seemed too severe, preferred a more moderate approach. Therefore, after some separated themselves from others, the Observants arose from this, and the Conventuals from that. Similarly, the strict innocence, the high and magnificent virtues, with which he shone like a miracle, some sought to imitate courageously and severely, while others wished to do so more gently and less diligently. From the former, the family of Capuchin brothers coalesced, resulting in a threefold division. However, the Order did not perish for this reason: for it is known that members of the various disciplines mentioned have rendered distinguished services to the Church and have earned a reputation for virtue. Concerning the Order of the Conventuals, and also concerning the Capuchins, we decree nothing new. Let each retain the legitimate rights of its own discipline, as they possess them, for the future. These letters of Ours pertain only to those who, by the concession of the Apostolic See, precede others in place and honor, and who retain the name of the Brothers Minor, accepted by Leo X (1). Even among these, not all live in complete agreement. Although they have striven to observe the common laws, they have done so with varying degrees of strictness. This situation has resulted in four categories, as is known: the Observants, the Reformat, the Eœealceatos or Alcantarinos, and the Reollectos; and yet, it has not completely destroyed the unity of the society. For although one family differs from another in privileges, statutes, and various customs, and each possesses its own provinces and houses of novices, nevertheless, all have constantly maintained obedience to the same superior, whom they call the General Minister of the entire Order of the Minor Brothers, as is proper (2). Nevertheless, this fourfold division, if it has hindered the hope of the elders for the good that a perfect community would have brought, has not broken the discipline of life. Moreover, since each has had authors and helpers who have been devoted to the salvation of others, and men of outstanding virtue and wisdom, they are worthy of the benevolence and grace of the Roman Pontiffs. This is from the head, by force and will. Const. Ill and you, June 1st, 1517. (2) Leo X, cited Constitution. Go, and you.

[*Latin ed. p. 228*]

228 The Apostolic Constitution, born of zeal, has proven effective in pro-

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ducing salutary results and in renewing the ancient examples of the Franciscans. But is there any human institution to which old age does not eventually bring its effects? Certainly, experience teaches that the pursuit of perfect virtue, which is so common in the early years and youth of religious Orders, gradually relaxes, and the former ardor of the spirit often succumbs to old age. To this natural process of aging and decline, which is common to all human societies, a new and hostile force has now been added from without. Indeed, the terrible storm of times, which has agitated the Catholic world for more than a hundred years, has inevitably affected even the auxiliary forces of the Church, which we call the Orders of men. What region, what shore of Europe has not seen them despoiled, oppressed, extorted, and treated with hostility? The great and divinely appointed task that they perform has not entirely escaped their notice. Indeed, these two combined causes have inflicted a grievous wound upon them; it could not fail to happen that the structure would be weakened by this double burden, and that the force of discipline, like a body weakened by illness, would grow feeble. Hence, the necessity for reform. And indeed, there have been those within the religious Orders who, seeing these wounds, as we have called them, have spontaneously and with commendable zeal sought to heal them and to restore them to their former state. But even with the best of intentions, this is difficult, if not impossible, to achieve, because it requires the accumulated strength of many cooperating forces. Indeed, the prefect of an Order does not have perfect and absolute power over all its members: certain of his actions and commands may be challenged by private laws, and this makes it clear that there is always room for conflicting wills. Furthermore, the various congregations, although they flow into one Order and achieve something together, are so prone to being moved by their own affairs, and to loving themselves more than the whole, that, with each one striving for itself, great common benefits are easily hindered. Finally, it is hardly necessary to mention the controversies and discussions that the variety of congregations, the differences in their statutes, and the disparities in their studies have so often caused, and that the same causes can renew them almost every day. But what of the pernicious dis-

[*Latin ed. p. 229*]

APOSTOLIC CONSTITUTION 229. This, indeed, is the case: when once life is undermined in Xanten, the very foundations of existence are destroyed, and even the most flourishing affairs are driven to ruin. Therefore, the Order of Friars Minor must be strengthened and reinforced, with the dissipation of energies removed: all the more so, because the present age is characterized by popular inclinations and customs; and therefore, a common brotherhood of religious men, established in a popular manner in terms of origin, sustenance, and institutions, is desirable. For those who are popular can, much more easily and effectively, aspire to and serve the

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multitude, acting and working for the common good. We are certain that the Friars Minor, having been offered this opportunity for good works, will diligently and usefully employ themselves, provided they are vigorous, properly organized, and instructed, as is fitting. While we were considering all these matters, the actions of our predecessors came to mind, who were accustomed to assist the common welfare and prosperity of the students of the Franciscan Order, as the circumstances required. We, too, desired to act with similar zeal and benevolence, not only from a sense of duty, but also because of those very reasons which we mentioned at the beginning. However, we have understood that the time has come to restore the ancient Order to its former union and communion of life. Thus, with the causes of discord and contention removed, all wills will be united in one purpose and guided by one another, and, consequently, that very form of constitution which the wise legislator envisioned will be restored. We have added two considerations to this matter, which are indeed worthy of consideration, but we did not deem them so important as to delay the course of our deliberations in any way, namely, that the privileges of individual groups should be abolished, and that all those who are Friars Minor, wherever they may be, should be equally subject to the laws of a single discipline. For those privileges were certainly opportune and beneficial when they were established, but now, in changed times, they are not only of no benefit to the observance of religious laws, but seem rather to be detrimental. Similarly, it would have been untimely and inconvenient to impose uniform laws on all, as long as the various fraternities of Friars Minor differed greatly in their internal discipline; but now, they differ only to a slight degree. Nevertheless, mindful of the institutions and customs of our predecessors, and because the matter at hand is of greater importance, we seek the light of counsel and the prudence of judgment most especially from those who have judged this matter.

[*Latin ed. p. 230*]

250 The Apostolic Constitution could rightly be enacted, we have considered. Firstly, when the representatives of the entire Order of Minor Friars convened in Assisi in the year 1845, to a council presided over by His Most Reverend Eminence, Giles Mauri, Cardinal of the Holy Roman Church, Archbishop of Ferrara, we ordered that opinions be expressed in the council regarding what each individual thought about the proposed union of all the families. They judged it to be highly desirable. Indeed, they even entrusted this task to certain men chosen from that very assembly, so that they might draft a code of constitutions, a common one for all, should the Apostolic See approve of this communion. Furthermore, the Most Reverend Cardinals of the Sacred Council for Bishops and Religious Orders, who, together with the Most Reverend Cardinals of the Sacred Christian Council, strongly approved of this matter for the propagation of the Chris-

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tian name, diligently examined the acts of the Council of Assisi and all the relevant considerations, and, after exploring and amending them as seemed fitting, they testified that they wished to request that the Order, having abolished the distinction of families, be rightly constituted as one. Therefore, we have clearly seen that this is entirely expedient and beneficial, and that it is also in perfect agreement with the intention of the most holy Founder and with the very will of God, without any doubt. Since these things are so, by our apostolic authority, through the power of these letters, we recall the Order of Minor Friars, which has been divided until now into various sodalities, to complete unity and perfect communion of life, so that it may become one and single body, with all distinctions of families completely abolished, and we declare that it has been recalled. I. Let the names Observants, Reformers, Recollects, or Alcantarines, and the name Recollects, be extinguished without any reservation, and let the ORDER OF MINOR FRIARS be called simply "Order of Friars," governed by one [leader], subject to the same laws, and using the same administration, according to the new constitutions, which we command all everywhere to observe with the utmost faith and constancy. II. Let all special statutes, as well as all special privileges and rights, by which individual families privately used and enjoyed, and indeed, let all things which in any way suggest a difference or distinction, be abolished; except for rights and privileges against third parties: these privileges and rights, whatever they may be, shall remain valid, as justice and equity require, and shall be maintained.

[*Latin ed. p. 231*]

CONSTITUTION APOSTOLIC 251 III. All shall wear the same habit and adornment. IV. In the governance of the entire Order, there shall be one General Minister, and likewise, one Procurator; one Secretary for the records; and one Curator for the celestial honors. V. All those who, from this day forward, have properly received the minorite habit, and all those who have solemnly pronounced their vows, whether in a greater or lesser manner, shall be subject to these new Constitutions, and shall be bound by all the offices and duties that follow from them. If anyone refuses to be subject to these new Constitutions, they shall be forbidden from wearing the religious habit and from pronouncing their vows. VI. If any Province does not comply with these precepts and laws, it shall not be permitted to receive novices or to admit anyone properly into the Order. VII. For the sake of a higher perfection and, as it were, a more contemplative life, it is permissible in each Province to dedicate one or two houses to this purpose. Such houses shall be governed by the laws of the new Constitutions. VIII. If any of the solemnly professed members refuse, for just reasons, to dedicate themselves to the discipline established by these letters, it is permissible, with the authority and approval of the Superiors, for them to withdraw to certain houses of their Order. IX. The General Minister, together with the

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General Definitors, may, if necessity requires, change the boundaries of the Provinces and reduce their number, after obtaining the opinion of the Definitors of the Provinces concerned. X. Now that the General Minister and the other men who, up to this day, have been entrusted with the governance of the entire Order have relinquished their offices, We declare that Our authority shall be exercised in this present matter. The General Definitors, and the other officials who are usually designated to perform greater duties in the general chapter of the Order, shall be designated in this present matter by the Sacred Council of Bishops and Religious Orders, after first obtaining their opinion from those who currently hold the power of the General Definitors. In the meantime, the local General Minister and the General Definitors shall continue to perform their respective duties. It has been pleasing to Us that We could dedicate Our piety and Our ancient religion to the venerable Francis, as a lasting memorial of Providence; and We offer special thanks to the divine goodness, which has reserved this consolation for Us in Our old age. As for those members of the Order of the Minorites...

[*Latin ed. p. 232*]

252 APOSTOLIC CONSTITUTION: We exhort, implore, and urge, filled with good hope, that, mindful of the great example of their forefathers, they draw from these very things which we have decreed for their common good, alacrity of spirit and incentives to virtue, so that they may worthily walk in the vocation with which they have been called, with all humility, and gentleness, and patience, supporting one another in charity, and being solicitous to preserve the unity of the spirit in the bond of peace (1). Moreover, we decree that these present letters, and everything contained within them, shall never, at any time, be marked or impugned by any flaw, deceit, or intention of ours, but shall always be valid and remain in their full force, and shall be inviolably observed by all, of whatever rank and standing, both in judgment and outside of it; and that they shall be declared null and void if anyone, through any authority or pretext, knowingly or unknowingly, should attempt to violate them, notwithstanding anything to the contrary, even if deserving of special mention, to which all things, by the fullness of our power, with certain knowledge and of our own accord concerning the foregoing, we expressly derogate, and declare to have been derogated. We wish that the same faith be given to copies of these letters, even printed ones, as to those handwritten, signed by the Notary, and sealed with the seal of a man of ecclesiastical dignity, as established by law. Therefore, no human being shall be permitted to infringe this page of our constitution, order, union, limitation, derogation, or will, or to dare to contradict it with reckless audacity. — If anyone should presume to attempt this, let him know that he will incur the indignation of the Almighty God and of the blessed Apostles Peter and Paul. Given at Rome, near St. Peter's, on the

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fourth day before the Kalends of October, in the year one thousand eight hundred and ninety-seven of the Incarnation of the Lord, in the twentieth year of Our Pontificate.

C. CARD. ALOISI-MASELLA, PRO-DATARIUS.

A. CARD. MACCHI.

VISA DB CURIA

I. DE AQUILA E VICECOMITIBUS.

Loco: Plumbi.
Reg. in Secret. Brevium.

I. CUGNONIUS.

(1) Ephesians 4:1, 2, 3, 5.

[*Latin ed. p. 233*]

FROM THE HOLY CONGREGATION OF THE COUNCIL OF CARCASSONNE. DECREE OF MARRIAGE. Dated April 5, 1897. Session 21, Chapter 5, Concerning Impediments to Marriage. SUMMARY OF THE CASE. The conjugal bond, having been duly observed according to the laws of Trent, was entered into in the church of Saint Vincent, located in the city of Carcassonne, on May 15, 1895, by Maria Antonia and Justin. The spouses, born of honorable lineage and distinguished in their youth, were as follows: the wife was 22 years of age, and the husband was 33 years of age. Immediately after the marriage, they began a brief period of conjugal life, lasting approximately 10 days, and they used the same bed for four months; however, both assert that the marital union was not consummated, but for different reasons. Antonia claims that the husband refused to have carnal relations with her, because he harbored illicit affections for another woman, and he declared that he did not wish to have children. On the other hand, the husband states that, from the very first night of marriage, he repeatedly attempted to have intercourse with his wife, but without success. Consequently, the minds of the spouses, as the witnesses assert, never truly agreed, and they became so estranged that, after 7 months of cohabitation, the conjugal life was completely disrupted. Therefore, the unfortunate Antonia appealed to the Most Holy Prince [the Bishop] to grant her a dispensation from the marriage, which was valid but not consummated. In the meantime, a petition has also been filed with the civil court

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for the dissolution of the marriage, which they call a "civil" divorce, but a judgment has not yet been rendered. The Carcassonne ecclesiastical court, having been legitimately delegated, has instituted a process concerning the alleged non-consummation of the marriage; and the Bishop, transmitting the records of the process, strongly commended the advocate, asserting that her testimony should be given great weight.

[*Latin ed. p. 234*]

234. CARCASSONE. Disputation concerning the validity of a marriage; DEFENSE OF THE WOMAN. The advocate, stating that the case rests upon testimonies demonstrating that the husband refused to consummate the marriage due to his illicit desires, recounts the words of his client: "Our common life under the same roof lasted for approximately seven months. During this time, we regularly shared the bedroom and bed for only about four months. I was never asked to fulfill the conjugal duty, not even during the short honeymoon trip, nor in the days that followed the marriage. I would have been entirely willing." Further, the same witness continues, saying: "But the draconian conditions imposed by my husband, who continued to consider me a stranger, led me to discover authentic relations of my husband with a girl of loose morals, which had been established before the marriage and which continued thereafter." The advocate notes that the testimony of Justin is consistent, who, when questioned by the judge in the 5th place, testified: "Our common life lasted seven months, and during that time we shared the same bedroom and bed for only four months. There were, especially in the early days, attempts to fulfill the conjugal duty: but without success, and these attempts occurred from the very first night following the marriage." "I confided in my father and mother about this, approximately one month after the marriage, and I attributed the cause to a defective conformation of my wife." Because the spouses disagree in assigning the cause of the lack of consummation, the advocate recounts the testimony of a Bishop: "If it is permissible to open my mind concerning this variety of testimonies, I assert without doubt that the woman's testimony should be entirely trusted, as long as full faith is not given to the testimony of a husband with corrupt morals, and a thorough examination of the woman's body does not reveal any deception: for under a veil of falsehood, he has audaciously attempted to conceal, on three occasions, a systematic reluctance against the conjugal duty."

[*Latin ed. p. 235*]

CARCASSONNE. 23!> Indeed, the advocate observes, that the discrepancy between the spouses, in this particular point, does not prejudice the case, but rather, on the contrary, contributes greatly to their favor, because from this disagreement it becomes more and more evident that the aforementioned spouses did not conspire to deceive the judges, but rather, with

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equal consent, they petition the Holy See for the granting of a dispensation from marriage. Therefore, the confessions of both parties, insofar as they relate to the fact of the non-consummation, are to be held in high regard, according to the advocate, who claims the greatest authority in this matter. Furthermore, all the witnesses, as if with one voice, confirm the testimonies of the spouses regarding the non-consummated marriage, and they firmly believe that they have spoken the truth in this matter. Thus, the bride's mother testifies that, after the separation, she heard again from her daughter that the husband had never attempted to consummate the marriage. "Moreover, I can confirm what my daughter told me, that he never attempted to fulfill the conjugal duty." Then, the mother continues: "For me, the cause of the non-consummation was the obstinacy and the prejudice of the husband. May I add that I believe that this systematic refusal by the husband may stem from a prior commitment made with his concubine?" The advocate adds that the testimony of R. Guilhem, a priest and canon of the Cathedral church, and the brother-in-law of both spouses, is also important. After the separation, he learned, from the abundant tears of the actress and her mother, that the marriage had not been consummated, a fact that had been given to him in good faith by the husband before the marriage. D. Vergue t, a senior canon of the Cathedral Chapter, and the uncle of the mother of the bride, who had solemnly blessed the marriage with the permission of the parish priest, heard from the bride's mother, six months after the marriage, that the marriage had remained unconsummated; and, considering the circumstances, this convinced him. Since all the witnesses testify and confirm these things, the advocate observes that these cited witnesses are, for the seventh time, of the most unimpeachable integrity and fidelity, and that among them are some who are of the highest priestly decorum and ecclesiastical dignity. Therefore, those who conspire amicably in their own...

[*Latin ed. p. 236*]

236 CARCASSONE. The testimonies, detailing specific events, revelations, and occurrences heard by the woman at an unexpected time from the man, and revealing the true cause of this marriage's lack of consummation, sufficiently demonstrate that the woman's deposition regarding the unconsummated marriage and its cause was sincere and worthy of belief. Conversely, the defender argues that the witnesses brought forth by the man admit to the lack of consummation of the marriage, but they do not believe the woman's assertion regarding the wife's impotence. However, the defender continues, all doubt is removed by the examination of the woman's body, in which, following the most prudent method prescribed by the Sacred Congregation in 1840 for the conduct of proceedings in such cases, irrefutable physical certainty emerges regarding the woman's integrity and the lack of consummation of the marriage. Indeed, the examination was

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duly performed by three of the most skilled and reputable midwives of Carcassonne, appointed for this purpose; and they issued a testimony attesting to the integrity of the woman. The report of each midwife was separately presented to two doctors, namely Theodore Jalabert, a surgeon and obstetrician, and Felix Cordes, a physician, both distinguished for their knowledge and piety, who, in addition to receiving the reports from the midwives, also separately examined the body of Antoinette for greater certainty, and issued a judgment affirming the woman's integrity. Finally, the advocate, proceeding to the reasons for granting a dispensation, notes that these cannot be called into question, since the matter involves discord of spirits, devoid of peace, and, on the part of the woman, a danger of incontinence, and a legitimate aversion to that man who has dishonored her and has never pursued her with love, postponing the marital act.

OBSERVATIONS OF THE DEFENDER OF THE MARRIAGE BOND.

On the other hand, the Defender of the Marriage Bond notes that nothing was done decisively, nor could there have been any suspicion that both parties would enter into a marriage, bearing the burdens that are the rights of husbands and wives according to divine and human law.

[*Latin ed. p. 237*]

CARCASSONE. 257, they assert, being ready to bear the burden. Indeed, no one compelled them to consent unwillingly, but both agreed willingly and of their own accord. Regarding the conjugal life, which lasted for 7 months, the Defender points out that nothing has emerged that reveals an abnormal condition of the spouses. In fact, the advocate cites Pignatelli, *Consul*, title 1, *Consul*, 148, number 21i, stating: "From this (cohabitation) and sleeping together for five months, the presumption of law arises, and by law, for consummation, according to Bald, in *I. Beo*, number 7, *De Episc.* and *cleric.*, and the doctors state, and it is commonly held in chapter *Laudabilem* concerning frigidity and malice." However, the evidence presented to demonstrate that Justin and Antonia did not, in fact, cohabit, does not seem to entirely dispel the suspicions of the Defender. Indeed, the suspicion arises primarily from the confession of the spouses, since both desire the marriage to be dissolved. And therefore, the matter concerns a confession that is advantageous to the confessor; which, neither in other cases, nor in matrimonial cases, is considered as proof. As Sánchez De Matrim, book 2, disputation 45, section 33 states: "A confession, when it is in favor of the confessor, is nothing." Furthermore, the advocate argues, that Justin and Antonia clearly demonstrate that they are more concerned with their own self-interest than with the truth. Indeed, while both profess, with one voice, the lack of consummation, which is advantageous to both, they contradict themselves when they recount the reasons for the alleged

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lack of consummation, since what benefits one, harms the other. For example, while the wife affirms that the signs of consummation were absent, Justin, on the contrary, asserts that they were present. Finally, the Defender observes that it cannot be said that the examination by the midwife and doctors was absolutely complete, since it is not certain that each midwife and doctor gave their testimony before knowing the testimony given by other investigators. Furthermore, the advocate points out that much is lacking in cases initiated by par-

[*Latin ed. p. 238*]

238 - CARCASSONE. Regarding the testimonies presented to obtain a dispensation from the bond of the great sacrament. Having considered these matters, the following question was proposed: Whether it is necessary to consult with the Most Holy [Father] regarding a dispensation concerning a marriage that is valid but not consummated, in this case. RESOLUTION. The Sacred Congregation, after deliberation on April 3, 1897, decided to respond: Affirmative. OXOMEN. CONCERNING THE FOUNDATION OF CHAPLAINCIES. On June 26, 1897. Through summary petitions. SUMMARY OF THE CASE. The most pious spouses Gaspar de Mata and Marianna Ruiz de Almanta, in the year 1813, by a public instrument, founded two chaplaincies in the Cathedral Church, one under the invocation of Saint Sebastian, and the other of the Blessed Virgin Mary of the Rosary, reserving the right of patronage for themselves, and adding several obligations, especially of Masses. In order that the chaplains might have adequate support and to remove the danger of a reduction in the obligations, the founders determined a certain sum of revenue for each chaplaincy, donating a capital sum of 8884 Ducats, the revenue of which, namely 444 Ducats, would be distributed in such a way that each chaplain would have 200 Ducats for adequate support, in addition to the obligation of daily Masses. There remained 44 Ducats, which were to be spent primarily in the following manner: a) 26 Ducats were to be paid to the Monastery of the Blessed Virgin of Mount Carmel, located in Burgo, partly for the use of utensils, partly for certain Masses celebrated in said Church, and partly for the purchase of candles and bread to be offered to this Church; b) Also, 10 Duc-

[*Latin ed. p. 239*]

OXOMEN. 239 cata solvenda erant Ecclesiae Cathedrali, c) 50 nummi (Reali) solvendi erant patronis in signum grati animi; et alia id genus onera legata fuerant in tabulis fundationis. Verum malo fundatorum fato, qua causa, quo tempore, nescitur, fundationis tabulae naufragium passae sunt atque pro deperditis huc usque habitae sunt adeo ut capellanía sub invocatione B. M. V. a Rosario anno 1865 collata sit hodierno capellano Raymundo Hernando cum onere tantum, unoquoque anno, celebrandi viginti

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Missas et duas cum dimidia libellas erogandi fabricae eiusdem ecclesiae. At anno 1895 tabulae fundationis e latebris, nescio cuiusnam archivii, in lucem vindicatae fuerunt; quamobrem curia sollicita fuit, has denunciare capellano ut de oneribus suo beneficio adnexis certior fieret. — At hic, rei novitatem non parum demiratus, animo reputans, hisce oneribus satisfaciendis reditus capellaniae impares esse, recursum habuit ad Sacratissimum Patrem, quo sospite fruimur, ut dignaretur onera capellaniae reducere, ea rata habendo quae hactenus in more fuerunt. — At contra huiusmodi reductionem P.P. Carmelitani protestati sunt, expostulantes legati praestationem. — Episcopus de more percontatus fuit, qui haec retulit: « Certum quidem est Capellaniam, sub advocatione B.M.V., a Rosario in hac Cathedrali Ecclesia fundatam, rite et canonice Oratori collatam ab Ordinario fuisse anno 1865 cum onere tantum unoquoque anno celebrandi viginti Missas et duas cum dimidia libellas erogandi fabricae eiusdem Ecclesiae, ceteris omissis in primaeva Capellaniae institutione stabilitis, deperditum enim tunc temporis videbatur institutionis instrumentum. Hoc vero nunc demum comperto, apparet celebrandam esse ex institutorum voluntate Missam singulis anni diebus, insimulque adimplenda alia onera in precibus adamussim relata ». « Attamen cum Capellaniae redditus decursu temporis iacturam passi fuerint, et eorum commutatione nonnullis abhinc annis peracta ad normam Conventionis anni 1867. »

[*Latin ed. p. 240*]

240. OXOMEN. Between the Holy See and the Kingdom of Cattolica, it has transpired that the public debt in the diocesan treasury, as they call it, has reached a point where the annual revenue of 315 florins cannot possibly suffice to meet all the obligations. "Therefore, what is to be done? The superiors of the Carmelite convent maintain that they must first be paid, and that their obligations should take precedence over all others, as is stated in the founding document, namely, that these obligations will never be reduced, even if the income of the chapel should suffer a loss." "On the contrary, the patrons of the chapel, to whom I give my heartfelt assent, believe that the obligations for the Masses should take precedence over all others, according to the intention of the founders, and this is all the more so because it is clear that the chapel's income has suffered not a small, but a very significant loss. Indeed, of the 315 florins mentioned above, 40 florins are freely allocated for the proper support of the chaplain, according to the synodal regulations of this diocese, leaving only 40 florins remaining, from which only a very small number of Masses can be celebrated." "Therefore, as I humbly express my opinion to this Holy Assembly, after careful consideration, I believe that the obligations of the esteemed chapel should be reduced, and that 25 Masses should be celebrated each year by the chaplain at the altar of the Blessed Virgin Mary of the Rosary in the Cathedral Church, in accordance with the intention of the founders, and

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that, in addition, two and a half florins should be paid to the fabric of the same Cathedral Church for the use of ornaments and vestments, as they say, to settle the matter regarding the past." The Procurator General of the Carmelites, when questioned, replied: "Furthermore, if I am not mistaken, the question here boils down to this: in the case of a reduction of obligations for a certain benefice, should the number of Masses be reduced, or should other obligations attached to that benefice be rather overlooked?" "I believe that this general question should be answered as follows: af-"

[*Latin ed. p. 241*]

OXOMEN. 241 affirmative, all other things being equal; and the reason is clear; because nothing is more useful in the Church, both for the living and for the dead, than the sacrifice of the Mass. Negatively, however, if it is clearly established that the testator had a different intention; for this intention must be sacredly observed, as both laws proclaim. "Now, concerning our case, it is most clearly established that the testators had a different intention. For, as if foreseeing what would happen, so that their devotion to the Church of the Carmelites, where their bodies lie, would not be sufficient, in the Instrument of Foundation of the Chapel, about which we spoke earlier, they repeatedly insist on the preservation of the Canon of our Church, so that even in the case, which they themselves contemplated, of a decrease in the revenues of the aforementioned Chapel, the Chaplain for the time being may not be excused from this obligation. What could be clearer? Or how could they have more strongly insisted on the perpetual preservation of the established offering to our Church, to be made for so many years? Since these clauses are not read in determining the number of Masses of the same Chapel, I believe that, in the event of a reduction in the number of Masses, consideration should be given to the aforementioned Canon of our Church, for whose payment, at least in the greater part, I deem it my duty to strive. If, however, it seems otherwise to Your Eminences, to whom I humbly submit all things with the most equal judgment, I kiss the sacred purple."

SYNOPTIC DISCUSSION.

REMARKS FROM THE OFFICE. Indeed, as is evident, the question is raised whether the burdens originally imposed on chapels should legitimately be observed, due to the contrary practice of a long period of time. Several and weighty doctors disagree on this matter from both sides, as Ferraris notes, *Biblioth. can. verb. Usucapió*, art. 1, n. 6 and seq. Generally, negative opinions are held by the Holy Congregation, as evidenced in *Romana Capellaniarum* of July 30, 1768, § *Quaestio*, in Comaclen. of July 8, 1818, and in *Civitatis Plebis* of May 11, 1793, *Acta*, Vol. XXX, p.

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CCCLII. 16.

[*Latin ed. p. 242*]

242. AGAINST THOSE WHO EXCUSE THEMSELVES. To the first objection. For if the obligations of Masses and pious foundations were not enforced against abuses and any contrary custom, the prescription established by law, as a penalty for the negligent, namely, the law "Ut perfectius" in Code 2, concerning annual dues, would be detrimental to the deceased, who are unable to defend themselves; therefore, it is a rule of natural law that one cannot act against the one who is unable to resist, and thus, prescription does not apply. This was clearly established by the Sacred Congregation, as reported by Monacelli, part 4, Supplement to volume 2, number 55, where: "A certain testator commanded his executors to establish, for the love of God and for the benefit of his soul, a chaplaincy with the stipulation that a chaplain should celebrate Mass every morning. The chaplaincy was established with the assignment of a suitable endowment; and because the chaplains, for a time, were accustomed to be absent once a week and neglected to offer the sacrifice for the testator, the case was brought before the Sacred Congregation. On February 18, 1702, in Lucania, it was declared that the chaplain is obligated to offer Mass for the founder, even if he himself has not expressly stated it, and the chaplains or rectors were condemned for the time during which they neglected to celebrate and offer the sacrifice, notwithstanding the contrary stipulation made in the table during the Apostolic Visitation, which had been in effect for about a hundred years."

Furthermore, sometimes, due to particular circumstances, the Sacred Congregation has ruled differently, as in the case of the chaplaincy in Perugia, on November 24, 1827; in which case, the E.E. PP. (Most Reverend Fathers) considered that a lay chaplaincy established by Flaminia Gigliotti Grotti, with the obligation of daily Masses, had not been altered, because the same goods had been perpetually possessed by the descendants of the patron, who had only taken care to celebrate three Masses each week since 1711; and therefore, the E.E. PP. decreed that only 156 annual Masses should be celebrated in the future.

From this, it can be inferred that the Sacred Congregation does not consider the obligation to celebrate Masses imposed by a pious foundation to be subject to prescription by the passage of time; but, sometimes, if such an obligation is real or affects a certain property as if it were a servitude, it can be extinguished if the property is possessed by another in good faith and if all other requirements for prescription are met.

[*Latin ed. p. 243*]

OXOMEN. 245 It is to be understood that [a fund] may be entirely or partially exempted from such a real burden. — Indeed, in Imola, the Pious Legates, on July 7, 1859, inquired whether a certain fund was still burdened

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with the obligation of Masses, when it had been possessed in good faith for 60 years, as if it were free and released from any legate. The matter was presented through summary petitions, and before a response was issued, it was noted on the record, and then the following questions for consideration were proposed: I. Does the fund called Cenocchiare now exist free from the burden of Masses? II. How should the Most Holy Congregation be consulted regarding the absolution and remission of past omissions in this case? The Sacred Congregation responded on February 27, 1858: To I. Affirmative, saving the right of the pious cause, against the heirs of the founder, for compensation. To II. As provided in the first. This action, reserved for the benefit of the pious cause, seems clearly to teach that, once the real burden is extinguished, the personal obligation to fulfill the burden remains, as far as possible. However, in this matter, the Eminents and Reverend Fathers [of the Sacred Congregation] order that some reduction of burdens be granted, which the Eminents and Reverend Fathers, according to their prudence, will determine. It is advisable to indicate that this is the practice of the Sacred Congregation in granting reductions, namely, that other pious legates should be reduced before the obligations of Masses. The matter is illustrated by Benedict XIV, De Syn. dioec. I. 13, c. 25, n. 23: "If any arrangement were proposed which would include both the obligations of Masses and the distribution of alms, or other pious obligations, and it were deemed necessary, due to the scarcity of income, to reduce some of the imposed burdens, then the other works should rather be reduced, and not the number of Masses; according to the practice adopted by the Congregation of Councils, as Fagnanus states in the cited chapter, part 34, De constit., where several resolutions confirm this, and especially in a certain resolution, or rescript, which was sent in writing to the Bishop of Cremona in June of the year 1586, and is found in book 4, Decret., page 161, verso, and 162: "To the extent that a reduction is to be made, alms should rather be reduced than Masses, etc." From the bundle of memorials, it is not clear whether other chapels...

[*Latin ed. p. 244*]

244. OXOMEN. The practice under the invocation of St. Sebastian still exists, and to what burdens does it provide relief? Having considered these matters, it was determined what response should be given. RESOLUTION. The Sacred Congregation, after deliberation on June 26, 1897, decided to respond: "A prior dispensation is granted for the reduction to annual Masses, according to the terms, concerning the past; fifty [Masses], granted by the LUCAN DISPENSATION, on June 26, 1897. Session 24, chapter 5, concerning the reform of marriage. Count Hieronymus, being twenty-nine years of age, and his cousin, Ludovica, born of noble lineage, sixteen years of age, were lawfully married on April 2, 1894, in the town of Lucana, in the diocese. This marital union, which seemed to have begun with a favorable

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omen, did not have a happy outcome; for, as the petitioner asserts, for about two years, the husband attempted, in vain, to consummate the marriage. The husband affirms this; but he claims that it occurred due to a certain coldness and aversion towards women, while the wife absolutely attributes it to the husband's impotence. Consequently, a separation occurred between the spouses. Following the advice of her mother and her husband's wife, the Count and the bride came to Rome to consult with the archpriest about their miserable condition; and indeed, after examining the husband's body, the physician did not recognize him as absolutely impotent. Therefore, he prescribed that for several months, the husband should abstain from cohabitation with his wife, traveling elsewhere until the coldness and aversion subsided. Meanwhile, Ludovica, having lost hope of being able to have relations with her husband, fled to her family home, and never returned to her husband, but petitioned the Roman Pontiff for a dispensation concerning the marriage, which was only valid. SUMMARY OF THE FACTS.

[*Latin ed. p. 245*]

LUCANA 245. A Synopsis Concerning the DEFENSE of a Woman. The advocate for Ludovica first attempts to prove, through both judicial and extrajudicial declarations, that the marriage was not consummated. Ludovica, under oath, narrates: that for the first two days, no attempt was made to consummate the marriage; and that on the third day, she, not with words, but with equivalent signs, willingly offered herself to her husband on two occasions for the purpose of consummation, but unsuccessfully. The woman states that she does not doubt the futility of these attempts. The advocate asserts that the sincerity of Ludovica's words is proven by the testimony of seven witnesses. Caesar Sardi testifies as follows: that he has always known Ludovica to be endowed with impeccable morals, character, and religious education; that she has never shown herself to be frivolous or fickle, but rather a virtuous girl worthy of trust. The Reverend Father Francis Massagli, parish priest of the town of Vicopelago, the Reverend Father Charles Frediani, parish priest of the town of Gattaiola, Countess Clementina Sardi, and Doctor John Navasques, the husband, testified under oath to the same effect; these being the parents of the actress. Even the witnesses called by the opposing party confirm the same. Furthermore, the husband himself testified regarding the lack of consummation, which he was never able to achieve. He had affirmed this in extrajudicial form on March 31st of the year 1896, before the vicariate of the chapter of Udine. Witnesses on the part of the plaintiff confirm this very fact. Those who were presented by the husband testify that the cause of the separation was the lack of consummation of the marriage. Countess Emma Ducco states that she knew that the marriage had not been consummated from a letter from the bride, and then from the groom himself and from her mother, and affirms: that

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she is certain that the marriage had not been consummated. Even before the commencement of the proceedings, when Ludovica held this opinion, it was deemed sufficient to seek a dissolution of the marriage.

[*Latin ed. p. 246*]

246. In Lugana, ad praebendam judicialem testimonium incorruptae virginitatis, corpus suum praebuit inspiciendum doctori medicinae Ioanni Navasques, qui testimonium protulit de integritate eius corporis. Inspectio alia superius iuxta normas a legibus praescriptas facta fuit in corpore Ludovicae; et ex hac, iuxta advocatum, plane colligitur Ludovicam virginem esse, ac proinde matrimonium cum comite numquam consummatum fuisse. Doctores confirmant sententiam duarum obstetricum super integritatem Ludovicae. Hisce positis, de dispensationis causis breviter agit advocatus. Iuxta eumdem patronum, prima causa dispensationis habetur in impotentia viri. Quam comes quidem vehementer abnuit, dicens: "Matrimonii non consummationem partam esse a frigiditate, minime vero ab impotentia, quam omnino non admittit." "Quid enim est frigidum esse," exclamat hic patronus, "nisi esse impotentem?" Similiter, viri impotentiam colligit etiam patronus ex depositionibus testium, tam ex parte viri quam ex parte mulieris, cum quibus concinit actricis testimonium. Post hoc, haud in dubium advocatus ponit viri impotentiam. At si res adhuc dubia esset, ad rem nihilominus facere docet illud: "Quando impotentia adstruitur pro motivo et causa gratiosae dispensationis, non illam exigit certam et concordantem probationem. Sed satis est quod dicta impotentia sit adeo probabilis, ut Summus Pontifex illam veram existimare possit et ad gratiam moveri." (Cosci De sep. tori lib. III, c. 2, n. 386). Alteram dispensationis causam advocatus invenit in periculo incontinentiae, in quo actrix in ipso ineuntis iuventutis fervore versatur. Tandem aliis dispensationis causis addenda quoque est, iuxta oratorem, inexpiabilis animorum dissentio, atque voluntas sponsae, ad contubernium cum sponso suo instaurandum, prorsus aversa; ceu Ludovica innuit, et eius mater et pater confirmant.

[*Latin ed. p. 247*]

LUCANA. 247. Truly, if the husband made a vehement effort to separate himself from the bride, whom he desired to keep with him, solely for this reason, the advocate maintains that he acted in this way, so that, with all his might, he might remove from himself the name of an impotent man, and not otherwise than the mark of infamy. Furthermore, the husband himself detests his wife. OBSERVATIONS OF THE DEFENDER OF THE SACRED BONDS. On the contrary, the bond of matrimony, by its very nature, as a tutor, prevents those spouses who swear that they have not slept together from actually cohabiting, and maintains that they have truly consummated the marriage. For Ludovica confesses: "I have attempted to consummate the marriage with my husband twelve times." Jerome, however, states: "I

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have attempted to do so three times, with a truly deliberate intention." Indeed, everything suggests that the spouses, burning with youthful ardor and inflamed with mutual love, have engaged in the conjugal act not three or twelve times, but far more often. Nor does the same advocate vouch for the truthfulness of the spouses, when they claim to have labored in vain. For Ludovica is entirely intent on dissolving the marriage. However, nothing is more established in law than that confession is considered in order to establish guilt, and not in favor of the one confessing; *Liber Decimvs*, 10 ff., concerning witnesses: "No one is considered a suitable witness in his own case." Therefore, Sánchez, in *De Matrimonio*, book 2, disputation 45, number 33, when discussing the weight of the spouses' confession in matrimonial causes, warns: "Confession, when it is made in order to confess, proves nothing in its favor." Furthermore, according to the defender, there are witnesses who are not of the seventh order, who do not consider Ludovica and Jerome to be truthful. Moreover, the defender believes that either Ludovica or Jerome are not truthful, from which it follows that one denies what the other affirms with certainty. He considers all these things to be sufficient and more than sufficient to reject the moral argument of the lack of consummation; but to complete the matter further, he adds another section, in which he speaks of the testimony of midwives. And here, he first notes that the midwives Pascha Poggeschi, Teresia Mei, and Catherine Tornei, who examined Ludovica's body, did not...

[*Latin ed. p. 248*]

248. The procedures followed in the case of Lucana were all those commonly employed by midwives and physicians in such a serious and arduous undertaking, and were carefully observed so as to avoid deception or being deceived. Indeed, the instruction issued by the Sacred Congregation on August 22, 1840, prescribes that the woman should remain in a bath of warm water for at least three-quarters of an hour. However, in the case of Ludovica, she remained in the bath for only 35 minutes. Furthermore, while midwives are usually examining the woman, they often place her in a bed. But in the case of Lucana, the midwives were satisfied for Ludovica to rest in a chair ("poltrona"). This position is not equally convenient for those examining her as is the position in a bed. After these matters, the defender finally reached the concluding part of his argument, where he discusses the reasons for granting a dispensation, which he believes are lacking in this case. For, according to the defender, the impotence of Jerome has not been proven. On the contrary, it has been shown that he has had relations with other women. Moreover, among the witnesses presented, there were those who believed that Ludovica had sought to obtain a marriage annulment due to deception regarding the economic status of her husband, who is accustomed to exaggerating his wealth, which is now proven to be false. With these considerations in mind, the question to be resolved was whether

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or not to consult with the Most Holy Congregation regarding a dispensation from a marriage that was valid but not consummated in this case. RESOLUTION. The Sacred Congregation, after deliberation on June 26, 1897, decided to respond: Affirmative.

[*Latin ed. p. 249*]

249 FROM THE HOLY CONGREGATION OF THE ROMAN AND UNIVERSAL INQUISITION: Instruction concerning the diligent care to be exercised in cases of solicitation. (1) August 5, 1897. I. The Instruction of the Holy Roman and Universal Inquisition concerning the observance of the Apostolic Constitution "Sacramentum Poenitentiae" No. 10 prescribes that, before any proceedings are initiated against the denounced, it must be ascertained and investigated by the judge whether the women or men who are making the denunciation are of good reputation, and whether they have been led to accuse [someone] by malice or by some other human motive. II. This precept, like all things pertaining to the procedure of this Supreme Tribunal, is to be considered of the strictest law, so that, if it is neglected, no further proceedings can be undertaken. III. It is not sufficient that this be done in some way, but it is absolutely necessary that a certain judicial form be made known to the judge; which, by its own wording: "to diligently investigate the denounced and those who denounce him," has obtained usage in the forum of the Holy Office. IV. Indeed, since this Supreme Tribunal has not always been able to ascertain that this is observed, nor by all, or only after a long time, especially when the reception of testimonies is difficult and sometimes impossible, this instruction has been ordered to be published, as a norm for the Ordinary of the Diocese. V. Therefore, the Ordinary, whenever he receives a denunciation concerning the infamous crime of solicitation, shall immediately proceed to make investigations. For this purpose, he will summon, either personally or through a priest specially delegated by him (certainly separately and with due circumspection), two witnesses, as far as possible from the ecclesiastical body, and in any case, without any exception, who are well acquainted with both the denounced and all and each of the denouncers, and he will question them judicially, under the sanctity of an oath to speak the truth and to observe the secrecy of the Holy Office, recording their testimony in writing, according to the following formula; and he will transmit an authentic copy of both testimonies, and together with the respective denunciation, directly and safely to this Supreme Congregation as soon as possible. (i) Recole Vol. XXV. 4SI.

[*Latin ed. p. 250*]

250. EX S. C. INQUISITIONIS VI. Est dictum: "Vel per se, vel per Sacerdotem a se delegatum; 'nam nihil prohibet, ut, ex rationabili causa, pia aliquo docto et prudenti Sacerdoti id muneris Ordinarius demandare

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valeat; speciali tamen ei in singulis casibus delegatione impertita, eique antea delato iureiurando de munere fideliter obeundo et de secreto S. Officii servando'." VII. "Quod si inveniri nequeant duo tantum testes qui noverint una simul denunciatum et omnes et singulos denunciantes, plures vocari debent. Tot nempe hoc in casu testes, ut supra vocandi erunt, quot oportebit ut duplex quoad denunciatum et unumquemque denunciantem habeatur testimonium." VIII. "Quoties autem iuramentum de secreto servando et, pro diversis casibus, de veritate dicenda vel de munere fideliter obeundo deferendum sit, iuramentum ipsum semper et ab omnibus, etiam Sacerdotibus, tactis SS. Dei Evangeliis et non aliter, praestandum erit. In Ordinarii vero potestate erit, siquidem pro rerum, locorum aut personarum adiunctis necessarium vel expediens iudicaverit, excommunicationem ipso facto incurrendam et Rom. Pont. speciali modo reservatam violatoribus comminari." IX. Sequitur formula interrogationis. Die.... mense.... anno.... Vocatus personaliter comparuit coram me infrascripto Episcopo. . . . (notetur nomen dioecesis. Delegatus autem dicat: coram me infrascripto a r. p. d. Episcopo. . . . ad hunc actum tantum specialiter delegato) sistente in . . . . (notetur locus ubi negotium geritur). N. . . . N. . . . (nomen, cognomen et qualitates testis conventi) qui, delato ei iuramento veritatis dicendae, quod praestitit tactis SS. Dei Evangeliis, fuit per me interrogatus:

1. "Utrum noverit Sacerdotem N. . . . N. . . .?" (nomen, cognomen et qualitates denunciati). Respondit: . . . (exseribatur lingua qua utitur testis, eius responsio).

2. "Quaenam sit huiusce Sacerdotis vitae ratio, quinam mores, quaenam penes populum existimatio?" Respondit: . . .

3. "Utrum noverit viros vel, ut plurimum, mulieres NN NN. . . .?" (nomen, cognomen et qualitates uniuscuiusque denunciantis). Respondit: . . .

[*Latin ed. p. 251*]

251 4. Questioned: What is the manner of life of each of them, what are their morals, and what is their reputation among the people? He answered: ... 5. Questioned: Does he consider them worthy of faith, or on the contrary, does he consider them capable of lying, slandering, and even of perjury in judgment? He answered: ... 6. Questioned: Does he know whether there has ever been any cause of hatred or animosity between them and the aforementioned Priest? He answered: ... Then, having been presented with the oath to observe the secrecy of the Holy Office, which he performed as stated above, he was dismissed, and before departing, he subscribed to confirm the foregoing. The subscription, with his own handwriting, and the signature or mark of the witness, and the sign of the cross. These things were done by me, N. . . . N. . . . (name, surname, and qualifications of the Bishop or his Delegate who received the testimony). Given in Rome

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on the 6th of August, 1897. FROM THE HOLY INQUISITION, L.M. Card. PAROCCHI. FROM THE HOLY CONGREGATION FOR RITES. Confirmation of the worship rendered to the Servant of God, Hroznata, of the Order of the Regular Canons of Prémontrè, the Blessed and Martyr, on this day, the 10th of August, 1897. The Christian religion, far surpassing Judaism, not limited by race, time, or place, but composed of people from every tribe and tongue and people and nation, offers to God, throughout all ages and in every place, the reasonable service of its children, shining with the integrity of faith and the manifold sanctity of life. At the end of the twelfth century, in Bohemia, there was Hroznata, a man distinguished by nobility and virtue, born around the year 1160, of the ancient royal lineage of the Guttestens, whose parents, Zezem and Dobreslavia, were most pious princes, connected by kinship to Saint Ludmilla, the grandmother of Saint Wenceslaus. His mother, in lu-

[*Latin ed. p. 252*]

252 According to accounts, a dead man was brought before Saint Clement, and the Blessed Virgin, invoked, restored him to life. Afterwards, she rescued a child who had fallen from a carriage and a young man who had slipped into a rushing stream, saving them both from danger. It is said that from her earliest years, she observed divine commandments and honored the Divine Virgin with singular piety. In the bloom of her youth, Hroznata married a noble and virtuous man, and conceived a son; but this domestic joy was soon turned to sorrow by the untimely death of both mother and child. As it is written: "All things work together for good to them that fear God," the Servant of God, though released from this double bond, which, though legitimate, had caused her such grief, and refreshed by evangelical and apostolic teachings, realized that it was good for her to adhere more closely to God. And it is particularly noteworthy that, among those who bore the cross as a sign, she decided to join those who were striving for the liberation of Christ's tomb, and she confirmed this with a vow. Already armed with the cross, she had begun her journey through Apulia, towards Palestine; but, struck by the sudden threat of approaching storms, and not without some divine prompting, she turned towards Rome, intending, in the manner of a pilgrim, to visit the sacred relics of the Princes of the Apostles and the Supreme Pontiff Celestine II. The Pontiff heard Hroznata speak of her life's story, and, after considering all things, as an interpreter of divine counsel, he granted her an Apostolic dispensation, ordering her to return to Bohemia and to found a temple and a monastery in honor of the Divine Virgin, and to enrich them perpetually. This vowed temple with its monastery was immediately built and endowed by the Servant of God at Tepla, and it was populated by Canons Regular of the Prémontré Order, who there not only performed sacred duties and offered divine praise, but also began to instruct students

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in the best disciplines for the good and growth of the Order itself. It is said that this work pleased God so much that, during the consecration of the temple, a star shone brightly overhead. At the same time, this heavenly sign secured greater reverence from the faithful for the Apostolic See, and it strengthened Hroznata's resolve to found two more monasteries near the town of Chotěšovice. These were built in an appropriate manner and endowed with a suitable endowment; one was given to the Religious of the Prémontré Order, and the other to nuns of the same Order, in which also Lady Woyzlava, Hroznata's sister, lived and died piously, having been widowed, her husband being the prefect of the city of Cracow. Meanwhile, the Servant of God, guided by a desire for religious perfection, continued...

[*Latin ed. p. 253*]

From the Sacred Rituals, number 253, he came from Rome, and, having placed his monastery at Tulle under the protection and patronage of the Supreme Pontiff, and having made his vows, and having also obtained certain privileges for those monasteries from the Apostolic See, he himself received the religious habit of the Praemonstratensian Order, with the sacred rites observed. Returning to his homeland, he greeted the King of Bohemia, his brother, to whose patronage he commended himself, along with his companions and the newly founded monastery. He was received with great joy at the monastery of Tepl, by the religious brethren, who wished him all the best for the founder and his companions. Faithfully observing the laws of the Religious Institute, he was appointed to administer the affairs of the monastery. In this office, he had to bravely defend justice against men who, driven by wickedness, sought to seize the fortune and property of the monastery. But these men, inflamed by implacable hatred, seized the Servant of God, who was inspecting the property of the monastery, and carried him off to Germany, where they imprisoned him. He could have been redeemed by a large sum of money offered by his companions, but he refused, preferring to suffer for Christ rather than enjoy his freedom, knowing well that blessed are those who suffer persecution for righteousness' sake. Thus, enduring many hardships, he passed away on July 14th of the year 1217, from his earthly and bodily prison, to the heavenly kingdom. It is recorded that on that same day, Hroznata appeared to his servant in prison, comforting him with his gentle apparition, and then sent a messenger to the brethren of Tepl, announcing his death and the burial of his body. Thus, he who, while alive, refused to be redeemed, was redeemed in death, and his remains were brought to the church of Tepl, and, after a solemn funeral, were honorably buried there, and are still religiously venerated to this day. Numerous public and ecclesiastical signs of devotion were constantly offered to the Servant of God, such as lamps lit at his tomb, an annual commemorative celebration on July 14th, with a sacred votive offering to Saint Mary or to the Most Holy Trinity, a

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tablet with the image and eulogy of the Blessed and Martyr placed on the altar for the veneration of the faithful, and other similar things, to which were added documents concerning the devotion, along with accounts of his sanctity, virtues, and miracles. However, since this devotion had not yet been authentically recognized and approved by the Apostolic See, the Most Reverend Cardinal Franciscus Schönborn, Archbishop of Prague, instituted a process on this matter through a delegated judge, and rendered a favorable judgment. Therefore, the Reverend Father Vitalis Van den Bruel, Procurator General,

[*Latin ed. p. 254*]

254 FROM THE SACRED CONGREGATION OF THE GENERAL CANONICAL INQUISITION of the Regular Canons of Prémontré, and of this Cause, the Postulator, having presented the votes of the entire Order, and also in the name of the most esteemed Archbishop, as well as the Reverend Chapter and the other clergy of the Archdiocese of Prague, humbly requested the Holy See to confirm this opinion. Hence, at the meetings of the Congregation of Sacred Rites held at the Vatican on the date indicated, signed by the Most Eminent and Reverend Cardinal Vincent Vannutelli, Relator of this Cause, the following question was proposed for discussion: "Whether the judgment of the Judge delegated by the Most Eminent and Reverend Archbishop of Prague, concerning the worship rendered to the aforementioned Servant of God from time immemorial, or concerning the case excepted from the Decrees of Pope Urban VIII, should be confirmed in the case and for the purpose in question?" And the Most Eminent and Reverend Fathers presiding over the Sacred Rites, after the report of the aforementioned Proponent, having carefully considered everything and heard the Reverend Father John Baptist Lugari, Promoter of the Holy Faith, judged it necessary to respond: Affirmative, that is, the judgment should be confirmed. On September 14, 1897. Subsequently, this was reported to His Holiness, our Most Holy Pope Leo XIII, through a report from the Secretary of the Sacred Congregation, and His Holiness approved and confirmed the Decree of the aforementioned Sacred Congregation, on the sixteenth day of the same month and year.

C. CARD. MAZZELLA

5. B. C. Pref. L.

S. DIOMEDES PANICI, Secretary.

FROM THE SACRED CONGREGATION FOR INDULGENCES

Most Blessed Father,

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William Pifferi, Bishop of Porphyria, humbly presents himself before Your Holiness and reports that the Reverend Fathers have benignly granted a Plenary Indulgence to be obtained by all the Christian faithful who belong to the Confraternity dedicated to the Most Sacred Heart of Jesus, on the first Friday of each month. In order that this devotion may be increased, Your Holiness is humbly requested to deign to grant the same Indulgence to all Christian faithful of both sexes, who...

[*Latin ed. p. 255*]

255. Those who are not members of the aforementioned confraternity, yet, on the aforementioned day, truly repentant, having confessed their sins and having been strengthened by the Holy Sacrifice of the Mass, may remember the infinite charity of the Most Sacred Heart of Jesus through pious meditation and may pray for a time to the Most Holy Virgin; moreover, may it please God to graciously grant to those Christian faithful who have fulfilled the aforementioned requirements an indulgence of seven years and as many quarantines.

And God. FROM the audience of the HOLY CONGREGATION FOR INDULGENCES, on September 7, 1897. His Holiness, Pope Leo XIII, graciously approved the aforementioned petition in all respects. This present decree is valid forever, without any further brief being required, notwithstanding any contrary provisions. Given in Rome, from the Secretariat of the Holy Congregation for Indulgences and Sacred Relics, on September 7, 1897.

Fr. HIERONYMUS M., Cardinal Gotti, Prefect.

L. 8 S. For the Most Reverend Prelate, Archbishop of Antinoen.

Secretary: Joseph M., Canon Coselli, Substitute.

FROM THE HOLY CONGREGATION OF THE INDEX, DECREE concerning the prohibition of books. The following question was proposed to this Holy Congregation: "Whether in the decree, number 17, of the General Decretals, concerning the prohibition and censorship of books, recently published by His Holiness, Pope Leo XIII, the words 'may not be published without the license of the competent authority' are to be understood in such a way that, in the future, all books, pamphlets, and folios concerning indulgences are to be referred solely to the local Ordinary for the granting of a license? Or are they to be subjected to censorship either by the Holy Congregation for Indulgences or by the local Ordinary, according to the norms established before the new Constitution *Officii et Munerum*?"

The same Holy Congregation of the Index responded: To the first part: Negatively. To the second part: Affirmatively.

Given in Rome, from the Secretariat of the aforementioned Holy Congregation, on August 7, 1897.

A. Cardinal Steinhaeber, Prefect.

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L. S. F. M. Cicognani, O.P., of the Secretariat.

[*Latin ed. p. 256*]

FROM THE HOLY CONGREGATION FOR THE PROPAGATION OF THE FAITH: Letters from the Apostolic Delegate of the United States, concerning doubts regarding parochial rights in quasi-parishes established for people of diverse languages. April 20, 1897.

Most Reverend and Reverend Fathers,

Since in the United States, several quasi-parishes for people of diverse languages have been established within the same territory, certain questions have arisen concerning the rights of those who are either born to parents belonging to these churches, or who have come from foreign nations, but who speak the English language. This Apostolic Delegation, considering the importance of this matter, deemed it best to submit these doubts to the judgment of the aforementioned Holy Congregation for the Propagation of the Faith, especially since they appeared to be connected with resolutions issued by the same Holy Order on April 11, 1887.

Furthermore, regarding the implementation of these resolutions, the Prefect of the same Sacred Congregation, in a communication given to us on April 26 of the current year, declared the following:

I. Children born in America to non-American parents who speak a language other than English are not obligated, once they have reached the age of majority, to join the quasi-parish to which their parents belong, but they have the right to join the quasi-parish in which the language of the region, or English, is used.

II. Catholics who were not born in America, but who know the English language, have the right to become members of that church in which the English language is in use, and they cannot be obligated to submit to the jurisdiction of the pastor of the church established for people who speak the language of their own nation.

These matters were to be brought to your attention, while I remain, as always, with the utmost reverence and esteem.

With the greatest devotion in Christ,

EPHES., Apostolic Delegate.

SEBASTIAN, Archbishop.

[*Latin ed. p. 257*]

257 FROM THE HOLY CONGREGATION OF THE COUNCIL — Regarding a dispensation for marriage in Ajaccio. Dated June 26, 1897. Session 24, Chapter 5. Concerning the dispensation for marriage. Aloysius and Aurelia, both of flourishing age, within the diocese of Ajaccio, duly and solemnly celebrated their marriage on October 3, 1893. However, this immediately proved to be most unfortunate. From the records, it is clear

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that Aloysius, easily yielding to lust, embracing the embraces of prostitutes, had from his youth so dissipated his wealth that, burdened with debt, he conceived the idea of taking as his wife his own sister, Aurelia, who was very wealthy. The woman further recounts that Aloysius, even on their honeymoon, immediately embarked on a journey of pleasure, and that after their marriage, they traveled to Marseilles and Paris; he was accustomed to abandoning her for many days and nights; or, for an entire month, he would leave her deserted in Paris, finding pleasure elsewhere with a mistress. Then, in November, the spouses traveled together to Marseilles; but since Aloysius there still did not blush to associate with prostitutes, the minds of the spouses became so estranged that, scarcely three months after the marriage contract, conjugal life was completely disrupted. Therefore, Aurelia appealed to the civil court, and in June 1894, she easily obtained a divorce. Subsequently, she appealed to the Ajaccio ecclesiastical court, in order to have the proceedings completed concerning the non-consummation of the marriage. Aurelia maintains, and before the Ajaccio Tribunal, under oath, affirms that the marriage remained unconsummated; while, on the contrary, the husband, duly summoned to court, also under oath, denies this, affirming instead that the marriage was truly consummated with Aurelia. SUMMARY OF THE FACTS. Records, Volume XXX, page CCCLII, line 17.

[*Latin ed. p. 258*]

258. ADJACENCY. A Synopsis of the Defense of the Woman. The patron of Aureliae, wishing to make his case clear, in order more easily to demonstrate that the actress's marriage remained unconsummated, first showed that if Aloysius had chosen the father's proposal to take a wife, the motive for this was, indeed, that, being burdened by foreign debts, he could in no way pay his creditors unless he married Aureliae. This, indeed, is not only testified to by Aureliae and her parents, but is affirmed by Aloysius's father, and confirmed by almost all the witnesses. Furthermore, the advocate continues, it was discovered that Aloysius had behaved so disgracefully towards his wife from the very beginning of their marriage, that he seemed to want to disgust her, and to show no affection for her, but rather to despise and reject her. Indeed, the day after the wedding, having left the house before dawn, Aloysius walked in the street "because he could not sleep." Shortly thereafter, he went to Lutetiae, Paris, on this marital journey, and it is said that he soon accustomed himself to constantly abandoning his wife during the day and night; indeed, he is said to have spent almost a whole month in southern Galliae without his wife. The advocate also believes that Aloysius, upon returning to Massiliae, proceeded to such an extent that he not only avoided Aureliae's room in the inn, but that he would not hesitate to leave her in public, exposing her to the license of brazen, depraved men. Finally, he argues, it was discovered that Aloysius, who

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seemed to place the greatest good in pleasure, and the greatest delights in wickedness, had not applied himself to frugality, or to a celebrated marriage; nor had he shown any semblance of modesty, respecting the bond by which he was bound; but he did not pass a moment without indulging in debauchery and defiling himself with the foulst stain of adultery. The witnesses demonstrate that, on the night preceding the wedding, he spent the night in obscene pleasures in a brothel; three days after the wedding, he used only the company of prostitutes in Massiliae; and soon after leaving his wife in Paris, he took a concubine, with whom he...

[*Latin ed. p. 259*]

ADJACENT. 259, having given a gift in the name of his wife at the inn; and it was said that he had been delighted by courtesanly loves, both here and there, with such audacity that he filled men with horror in their youth. Having stated these things, the lawyer concludes: it cannot be more true that Aloysius, during that quarter of married life, was united with Aurelia. But now he proceeds to more important matters. And first, he states that the rule concerning presumption of law and of right, which arises from the favor of marriage due to the cohabitation and bed-sharing of a young man with his wife, does not apply here. For he himself says that, whether the time is considered during which the spouses lived under the same roof, or whether there was no common household, or whether other things are added that occur, the incompletion of the infamous marriage should be taken as a certain argument. For Aurelia, under oath, says: "Under the faith of the oath, I affirm that there has been no consummation of the marriage. I declare that I understand very well that the consummation of the marriage consists in the introduction of the male member into the vagina of the woman – followed by an outpouring of seminal fluid into the interior of that organ. After this, I persist in affirming, under the faith of the oath, that my marriage with Mr. Louis has not been consummated." Here, the lawyer recounts many witnesses and assertions, with which he tries to demonstrate that, given the oath under which Aurelia says that her marriage remained unconsummated, full faith must be given to her words: "Madam Aurelia is endowed with rare and precious qualities.... And I have every reason to believe that her affirmation is sincere and truthful" (Napoleo Pietri). "I consider Madam Aurelia's affirmation to be sincere and truthful, and absolutely certain" (Joseph Orsini). The adjacent Bishop declares: "We certify that Madam Aurelia of our diocese is, like all her relatives, worthy of faith and fundamentally religious." Her Parish Priest: "I, the undersigned, declare that Madam Aurelia, who requests the invalidation of her marriage with Mr. Louis..."

[*Latin ed. p. 260*]

260. The case is worthy of all attention, and her statements deserve com-

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plete confidence, given her truly Christian upbringing and the piety she professes. Furthermore, the advocate states that Aurelia, at a time when there was no suspicion, affirmed that she had not consummated the marriage. The witness, Julia Girard, to whom Aurelia, shortly after her marriage in Marseilles, confided the secrets of her unhappy life, testifies. When Julia asked Aurelia if she had any hope of conceiving a child, Aurelia responded that it was impossible for such a thing to happen. Another argument presented by the advocate is drawn from the testimonies of witnesses; these witnesses not only praised Aurelia's truthfulness, but, considering the concurring evidence, testified that "if these things are not sufficient to establish knowledge, they are sufficient to establish faith, or belief," (Cardinal Turrecremata, *ad c. Requisivisti*) regarding the lack of consummation of the marriage. Finally, and most importantly, the advocate brings forth the argument of his case based on the judgment of the physicians, who, after hearing the obstetrician's report, testified as follows: "The judgment that I form is this: that... the consummation of the marriage, by a male member of ordinary size, did not take place" (Doctor James Massa). "My certainty is that the act of marriage was not accomplished" (Doctor Charles Legrand). It is, however, falsely objected that a tear in the hymen was found. Indeed, the advocate says, it is not ambiguous that not only can a true penetration of the genitals cause a tear, but that fingers, or even surgical instruments, can tear the hymen: and it can also happen that the hymen is naturally torn, or that a tear is caused by attempts at intercourse. "When one finds a tear in the hymen, it must not immediately be attributed to an accomplished act of intercourse, but all other circumstances that may give rise to a lesion of the hymen must be kept in mind" (Hofmann, *med. leg.*, p. 7, sect. 2, art. I, n. 1, Paris, 1881, page 66). Finally, the advocate notes that if the bridegroom, breaking the strictest bonds of his oath, had...

[*Latin ed. p. 261*]

AJACCIO. The defendant contends that the marriage was consummated; however, this is scarcely believable, for it is worth remembering that Aloysius was exceedingly corrupt, and his life was stained by numerous vices, a fact that is perhaps too evident. Indeed, even from his tender years, Aloysius was seen to indulge in lewdness, and he exercised his youth in that manner, very frequently, but in vain, promising that he would eventually be received into good standing. The witness, Aemilius Geerbrant, recounts: "His father addressed me in order to bring him back to better sentiments, but my efforts were unsuccessful." And since it is a well-worn proverb: "The fox changes its fur, not its mind, nor its manners," the reason that led him into life returned to his conjugal life. Furthermore, the advocate continues, Aloysius contradicts himself, for at one time he denied something, and at another time he boasted about it concerning the consummation. Witnesses testify: "I am certain, on the other hand, that with friends, Mr. Louis

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boasted of never having had relations with his wife," the witness, Napoleo Pietri. "The wife's assertion, on the contrary, is confirmed by various admissions from him, who, on several occasions, boasted of never having had any relations with his wife." "The husband is said to have boasted of not wanting to consummate the marriage – one of my friends heard him say so in a café." "I know that Mr. Louis made very inappropriate remarks about his wife, who, he said, disgusted him – these remarks were reported to me by young people who had heard them from Mr. Louis himself" (Carolus Geerbrant). Therefore, the advocate exclaims, if we hear Aloysius denying something at a time when suspicion was present; and if, at a time when suspicion was completely absent, he boasted intolerably about it: no one will say that the court of Ajaccio was mistaken, when it judged that Aloysius's affirmation of the consummation should not be believed: "Does not the assertion of Mr. Louis that the marriage was consummated seem to undermine the contrary declaration of Mademoiselle Aurélie? – Everything seems to establish the validity of Mademoiselle Aurélie's petition."

[*Latin ed. p. 262*]

262. ARGUMENT. The advocate maintains that there are reasons, according to the speaker, why Aloysius so stubbornly insists that the marriage was consummated. Before the marriage, he had made extravagant and indecent expenses; therefore, the confiscation of his goods was imminent. To avoid this, he chose marriage. After the marriage was dissolved by civil authority, he was indeed prohibited from conducting business, as testified by Julia Griraud. Furthermore, the lawyers argue that if Aloysius affirms that his marriage was consummated, he did so only with the intention of revealing the impotence of the union, which is a necessary consequence of the vices of his youth. Finally, the advocate, addressing the reasons for dispensing with the marriage, points out that these are clearly evident in the case. For Aloysius, burdened by debt and compelled by creditors, was forced into the marriage bond not of his own free will. Moreover, benevolence between spouses cannot be reconciled in any way; and all the more so, since the civil bond has been dissolved by divorce. The court in Ajaccio testifies: "Aucun espoir de rapprochement entre les époux ne peut pas exister" (No hope of reconciliation between the spouses can exist). Finally, the unfortunate wife, despite her excellent morals, is exposed to countless dangers of incontinence, unless she is again married.

OBSERVATIONS OF THE DEFENDER, MR. VINCULI. On the other hand, Mr. Vinculi, the defender, after recounting the facts, demonstrates that it is physically impossible, either that Aloysius married Aurelia in order to obtain a new sum of money from his father through the marriage, or that the marriage remained unconsummated. And first, to prove Aloysius's free will in contracting the marriage, he presents many testimonies, which, according to the advocate, either incidentally or in

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some way indicate the alleged coercion. But, according to the Defender, the aforementioned Henry De Giovanni, who, having explored the minds of Aloysius, Aurelia, and their parents, arranged the marriage, provides the most truthful testimony. Now, the question is: "Did you attend the marriage? Did you notice, either at the town hall or at the church, anything..."

[*Latin ed. p. 263*]

263. Who could have thought that one or the other of the spouses was not giving free consent? Thus replies Henry: "I attended the marriage and did not notice, either at the town hall or at the church, anything that could have led me to believe that one or the other of the spouses was not giving free consent. Moreover, I was not there to observe, nor even to examine the spouses, whom I believed to be both very happy to be united." Aloysius, the father, having been asked for his testimony more than once, replies: "I repeat that in 1893, my firm intention was to concern myself with the establishment of my son only when he had reached the age of 25 years, an age which he has not yet reached at the time that I testify before you. To complete my thought, I must say that a young woman from the continent, whose family was bound to mine by the bonds of the closest friendship, seemed to me to be suitable in every way for my son." The groom himself, questioned by the judge, replied: "I had seen her (Aurelia) in Cairo two years before our marriage, during a trip that I made with my brother-in-law, Mr. Roccaserra. I saw her again the following year in Marseille, at the Hotel des Colonies. These two encounters were brief and merely of a polite nature. I saw her again in Sartène two or three days before I asked for her hand, and always incidentally. After I obtained her hand, three weeks passed before the celebration of the marriage. I had affection for her; I found her very kind, and the good things that had been said to me about her made her even more pleasing. My father did not urge me to have this marriage, but in principle, he wanted to see me united in marriage in order to remove me from dangerous occasions. I knew that I could please my father by marrying, but that was not the sole purpose. I gave free and full consent." The Defender of the Faith, acting *ex officio*, asked: "Did you know the law of divorce?" Aloysius replied: "I knew it, but I was not thinking about it at all, and I had the best intentions..."

[*Latin ed. p. 264*]

264. "Adjacencies," he said to me, "by marrying me." The judge inquired: "Did you not have regrets about uniting with Mademoiselle Aurélie? Were you happy with your new condition?" He replied: "I did not have regrets about uniting with Mademoiselle Aurélie." Aloysius then continued: "Before the separation, I was happy with my condition; I found my wife charming in every respect and had no fault to find with her." Having established

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these points regarding the first part, the Defender, proceeding to refute the asserted lack of consummation, first presents the testimony of Aloysius, who, questioned by the judge, was asked: "Can you affirm, under oath, that during the time that the marriage lasted, your marriage with Madame Aurélie was truly consummated?" Without equivocation, he replied: "Yes, I affirm, under oath, that the marriage was consummated. There were not merely simple relations, but a true consummation." Regarding the reason why Aloysius would have brought dishonor upon the matter of adultery, the Defender demonstrates that this is not new; indeed, he considers it familiar to young people given to licentiousness. Furthermore, he believes that Aurélie hinted at this, when she recounted how Aloysius lived with her, both inside and outside the marital home, a life of joyful pleasures. Moreover, he argues that, if it were true that Aloysius had abandoned his fiancée, a woman of beauty and in the prime of youth, whom he himself had not, or could not, know carnally for an entire month, he would have declared himself to have been shamefully deceived, rather than writing these words to a friend: "He has no more affection for me. If only I did not love him still, I would not suffer so much from the blow he is preparing for me." Nor, when he threatened to leave, did the fiancée cry out: "It is not without fear that I see this last moment approaching." Indeed, the friend adds: "I have also received other letters, more sad and more anguished," among which: "A note in which she declared to me (according to the friend) that, being desperate, she was going to commit suicide." If Aloysius has scorned his wife, if he has sat beside her as if she were a useless piece of wood, the Defender finds it difficult to understand this.

[*Latin ed. p. 265*]

ADJACENCY. 265 Concerning the matter at hand in Orleans. Aurelia, rather than rejoicing, should have been distressed when Aloysius attempted to consummate the marriage, as she was obligated to do. And this all the more, because Aurelia well knows what a man is capable of accomplishing, if he desires and is able to make his wife happy: "I declare," she said, "that I fully understand that the consummation of marriage consists in the introduction of the man's member into the woman's vagina, followed by an emission of seminal fluid into the interior of that organ." After these statements, the Defender, having turned to a physical argument based on the examination of Aurelia's body, notes that three midwives, who, at the judge's command, examined Aurelia's body, unanimously proclaim that the hymen is torn. Indeed, the first midwife, Rosa Eymar, testifies: "The hymen is not entirely torn; there are two myrtle-shaped protuberances." The second midwife, Catherine Antony, states: "The hymen, of a circular shape, presents two protuberances due to small lacerations, which are observed on its marginal edge." The third midwife, Petronilla, reports: "I found two protuberances, one below the urethra and

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the other above." Unanimously, the midwives exclude any natural cause or illness as the cause of these conditions, but they believe that they were caused by manual action. Furthermore, Catherine Antony says: "These lacerations are certainly due to attempts to introduce any object into the vagina." Rosa Eyman says: "It may be the result of a childhood game or the introduction of a small foreign object." Petronilla Piccoli states: "The hymen is lacerated." Given this, the Defender argues as follows: Either the laceration of the hymen is attributable to Aloysius; and in this case, the consummation of the marriage is certain, because neither Aloysius was the kind of man who would refuse to complete a task once begun; nor did Aurelia offer any evidence of affection for Aloysius, if he were incapable of completing the act. Or, the witnesses are being deceived, or are themselves deceiving, when they extol Aurelia's honesty and virtue.

[*Latin ed. p. 266*]

266. The Defender does not consider the testimony of physicians sufficient to prove the alleged lack of consummation in this case, even though their words suggest a possibility, but do not definitively prove it. Doctor Legrand was content to state: "It is possible that the small tears of the hymen, which have been observed, may have existed even before the marriage," and another doctor, Massa, concluded: "The marriage was not consummated by a male member of ordinary size." Indeed, the Defender concludes, it is entirely impermissible to relax the marital bond unless the lack of consummation is fully established. The Defender also finds no just cause for a dispensation from the marriage. Aloysius, having repented of his departure from Aurelia, now expresses a desire to return to his wife's embrace: "Monsieur Louis," said Henry De Giovanni, "has acknowledged his faults, and has asked to make amends." However, if conjugal life is not restored, it is not due to Aurelia, but to her parents, which is certainly not just. Regarding Aloysius: "I believe I must say that I made an attempt at reconciliation two months ago. I even came to Sartène for that purpose. The attempt failed, and I attribute this failure more to the parents of my wife than to her herself, just as the divorce was requested and obtained at the instigation of her godfather, Mr. Girard, a substitute in Marseille. I confess that I have abandoned my wife, and I have been almost constantly in Marseille. Nevertheless, if her parents did not pressure her, I believe that my wife would consent to reconcile with me." Given these circumstances, the intention was to resolve the doubt as to whether a dispensation should be granted regarding a marriage that is valid but not consummated in this case. RESOLUTION. The Sacred Congregation, after deliberation on June 26, 1897, decided to respond: "From what has been presented, it does not

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appear that the marriage was not consummated."

[*Latin ed. p. 267*]

267 FROM THE HOLY CONGREGATION OF BISHOPS AND REGULAR CANONS OF DERTHUSA. CONCERNING THE NULLITY OF SENTENCES OR RESTITUTION TO THE ORIGINAL STATE. March 26, 1897. This question, which has been raised repeatedly, first between the Carmelite Discalced Nuns and the priest Henry of Osso, founder of the Congregation of the Sisters of St. Teresa of Jesus, and most recently between the sisters themselves, following the founder's death, has been presented both to the Spanish tribunals and to the Holy See. The point of contention is this: 1. Whether the House-Novitiate of the aforementioned sisters, which is located in the suburb of Jesus in the City of Derthusa, was built on land belonging to the Carmelite Nuns, and therefore should be demolished; and, affirmatively: 2. Whether, even if there was good faith on the part of the builder, the benefit of the law, namely prior indemnification for the demolition, should be admitted. Therefore, the priest Henry of Osso, after receiving several adverse judgments in Spain, the last of which was the second sentence of the Royal Court of Matritensis, brought the entire matter before the judgment of the Holy See. The case was discussed before the Holy Congregation of Bishops and Regular Canons on March 11, 1892 (1), concerning the following doubts: I. Whether the sentences issued by the Spanish tribunals should be revoked in this case; and, negatively: II. Whether and how the transaction requested by the priest Henry of Osso can be admitted. The response given was as follows: To I. Negatively, and the royal sentence of February 28, 1891, must be enforced. To II. Negatively, in all respects, and furthermore. Defeated, but not broken, the priest of Osso again petitioned the Holy Congregation on May 12, 1893, for a review of the case, alleging that the demolition of the Novitiate House would cause scandal. COMPENDIUM OF THE FACTS. (1) See Vol. XXIV, 550.

[*Latin ed. p. 268*]

268 DERTHUSEN. concerning their affairs, and requesting that, in the event of demolition, their good faith be considered, and that prior compensation be granted to them. In the meantime, the vacant episcopal see of Derthusen, a priest from Osso requested that the execution of the sentence be suspended until the arrival of a new bishop. However, later, the same priest, having discovered in the archives of the Holy Congregation that the documents presented by his procurator in the initial proposal of the case could not be found, began to insist on the benefit of restitution in integrum, since the aforementioned documents had not been known to the Most Eminent Fathers. Finally, a new bishop arrived; he, in his letters of January 12, 1895, after confirming the facts and reasons presented by

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the Carmelite nuns, and rejecting the insistence on obtaining the benefit of restitution in integrum, proposed a concordat, namely, that the disputed house of the novitiate should not be demolished, but rather be ceded to the nuns, who, for the benefit that would accrue to them, would pay a small sum of money, under agreements and conditions established between the parties and ratified by the authority of an ecclesiastical judge. However, since the proposed concordat did not please the priest from Osso, a decree was issued on April 27, 1895, that the case be discussed in a plenary session of the Most Eminent Fathers, with a doubt written at the bottom. In the meantime, the priest from Osso, following the example of all flesh, took up the cause of the Sisters of St. Teresa, his founder, and prosecuted it. A Synopsis of the Argument: RESTITUTION IN INTEGRUM IS TO BE GRANTED. The argument of the priest from Osso, or of the Sisters of St. Teresa, is divided into two parts; in the first, he argues that the aforementioned restitution should be granted; in the second, he proposes a way in which it should be granted. Addressing the first part, he recalls that the reasons for granting it are external. Regarding these external reasons, he first argues that the documents presented to the Holy Congregation for examination in the year 1892 were not subjected to the examination of the Most Eminent Fathers, because they were not found in the archives.

[*Latin ed. p. 269*]

TORTOSA. 269 The aforementioned Holy Congregation states that this was lost, and that it was discovered both from the official document, or Consultation, in whose summary only the documents of the opposing party are cited, and from the very bundle of acts of that time. Truly, it is uncivil to condemn someone unheard. He adduces another reason from the manner in which the Holy Congregation acted. For, it ordered, twice, that the decree of demolition of the house of the Sisters' Novitiate be suspended, while the Vicarius Capitularis of Tortosa was urging the demolition in his informative reports; which, indeed, indicates that there are reasons to challenge the issued judgments. And there is no other opinion among many and illustrious jurists in Spain, among whom he mentions two Cardinals, the Fathers Erh, as advocates. A third and more serious reason the Patron found in the irregularities of both the Tribunal of Appeal of Tarragona and the first Royal Court of Madrid. In the former, the judge was arbitrarily revoked by the Archbishop of Tarragona when the favorable sentence for the religious of Osso had already begun to be transcribed in the acts, and another judge was substituted who was entirely opposed to the client of Osso; in the latter, no provision was made regarding the complaints presented by Osso concerning the recusal of the judge, and it was falsely asserted that all irregularity had been remedied by the consent of the parties. Finally, the Patron maintains that restitution should be granted, because the alleged demolition is a legal absurdity. 1. Because the Teresian College was built

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on its own land, and therefore it should be assigned to the owner of the land, or if it arises on alien soil, it passes to the owner of the soil, according to the common saying that what is built on the soil passes to the soil, with prior compensation if good faith is present; but demolition can never be admitted, because this would benefit no one. 2. For the construction of the aforementioned College, expenses of 50,000 pounds have already been incurred, and the value of the land occupied by the building does not exceed 400 pounds. Truly, the claim to destroy such a building to recover land of so little value, even if...

[*Latin ed. p. 270*]

270. It cannot be admitted that the apex of justice would consist in demolition, because, as jurists commonly say, the highest law is the greatest injustice. 3. Furthermore, because the demolition in question would, on the one hand, cause scandal among the faithful, and, on the other hand, inflict the greatest injustice, since the sisters would be forcibly removed from their peaceful and legitimate possession, without having been previously heard and condemned in judgment. Moreover, the Defender adds reasons of an intrinsic nature, or those that touch upon merit, and argues, above all, that the House-Novitiate was built on the property of the Sisters in Fondi, and therefore its demolition could not be decreed without a serious violation of justice. He points out that the total demolition decreed in the matter constitutes a grave legal burden; for the action instituted by the assignees Sánchez, Auxachs, and Peñaroja in the first judgment was alternative, namely, either to demolish the entire building, or to reduce its height by 30 palms or measures; therefore, the priest of Osso should have been condemned to a partial demolition of the house, according to the well-known adage. In obscure matters, we must follow the least burdensome course. Having said this, the Orator adds that the entire matter is to be understood in the interpretation of the act of cession or donation made by Lady Magdalena de Gran. However, if this act is examined in itself, it is manifest that it does not oppose the priest of Osso. Indeed, as can be seen from the aforementioned instrument of donation, eleven measures of land are destined for a pious and religious purpose, according to the will and determination of the donors themselves; nothing, however, prevents two pious causes or foundations from arising under this pious and religious purpose; moreover, the aforementioned instrument speaks of the construction of buildings, and the donors themselves have designated two pious foundations, without anything contradicting the permission granted, whether in writing or by the Bishop, to the Carmelite nuns, because in these documents, the quantity of land is not specified, which was clearly prefixed

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by the donors themselves in only eight measures for the nuns, from one-

[*Latin ed. p. 271*]

DERTHUSEN. 271, having been given, as is confirmed by the information provided by the Derthusen Curia. Following this, the advocate, recalling the legal principle that in contracts, no interpretation can be preferred that is better than that given by the contracting parties themselves through their successive actions, demonstrates that the part of the land donated was truly intended for the construction of the Novitiate House for the Sisters: this is evident first from the letter of the chaplain, Lady De Gran, dated March 25, 1878, and from the testimony of the Superior General of the Sisters of St. Teresa, in which it is stated that the construction of the college took place with the consent of the donor, and indeed, that this sum was given specifically for that purpose. The opposing party sought to deny this intention by presenting another letter from the aforementioned lady, dated June 27, 1891, in which the construction of the college is said to have taken place against her will; but the advocate replies that, besides the fact that this letter is suspect, being written eleven years after the commencement of the dispute, it cannot invalidate the prior intention, according to the legal principle that once something has been agreed upon, it cannot subsequently be disapproved. Furthermore, according to the advocate, the act of donation was fully carried out by the donors themselves: he proves this both from the aforementioned informative act, signed by the donors themselves, and from their participation in the celebration for the inauguration of the building of the Sisters' college, in which the inscription of the first stone remained, not only signed by the Vicar General of Derthusen, but also by the donors themselves: this consensus and agreement persisted during the construction of the aforementioned building, and the only interruption occurred in November 1879, when the Sisters of St. Teresa were already in peaceful possession and occupation of the college: this is clearly demonstrated both from the sworn testimonies of the architect Albeza, from the fact that the associate Auxachs was paying the wages of the workers of the construction, and from the very Gubernative Decree. After this, the advocate refutes the seventh "Considerando" of the sentence of the second round of the Spanish Tribunal, arguing that the consent of the Carmelite nuns in the construction of the college was not lacking. Indeed, they consented first by themselves, and then on behalf of...

[*Latin ed. p. 272*]

272 DERTHUSEN. They were active on the feast day for the inauguration of the building, and, due to the insistence of those involved, they agreed, firstly, that the aforementioned house should be built as soon as possible, and secondly, that, with the consent of the Bishop of Derthusen, under whose immediate authority they were, the building should be commenced,

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provided that it was a well-known fact that, with his authorization, the building had been begun, and that, during the construction, he had visited it on several occasions; and that, by him, the Sisters were admitted to possession of the house. But, the Advocate continues, let us suppose that the disputed house was built on someone else's land. In this hypothesis, he maintains that his client acted with the utmost good faith, and therefore, that the privilege granted by the law of good faith to builders, namely, prior compensation both in terms of materials and expenses incurred in the construction of the building, should not be denied to him. He derives good faith not only from what has been stated so far, but also from the fact that, before commencing the work, he took all possible precautions, namely, by seeking the consent of the associates, the Carmelites, and of the ecclesiastical authority itself; he derives it from a letter written by the chaplain in the name of the donor, in which the good faith of the priest of Osso is stated in plain terms; he derives it from a confession made by three associates before the Provisor of Derthusen, during their investigative proceedings; and finally, he proves it from the fact that the Carmelite nuns made no objections during the construction, and from the fact that the Bishop of Derthusen, Aznar, and his General Vicar, Castellarnan, never expressed any doubt about the good faith of the priest of Osso. This is further corroborated by the sanctity of the life of the priest of Osso, and by his zeal for the salvation of souls, and by the oath that he swore that he had acted with the utmost good faith in the construction of the college. Finally, the Advocate states that the good faith of his client is also established legally: of six cases judged in the tribunals of Hispania, five admit it, except for the judgment of the second Turn of the Rota of Matritensis, which, by itself, does not constitute a final judgment; and although the Sacred Congregation of Bishops and Regular Canons confirmed that judgment, it was so because...

[*Latin ed. p. 273*]

DERTHUSEN. 273. It must be repeated that he failed to consider the opinions of others in which the good faith of the Reverend Father of Osso is determined. Having stated this, the advocate cites articles 453 and 361 of the Spanish Civil Code, where the rights of a builder in good faith are established. Moreover, he adds that even if the priest of Osso had acted in bad faith in the aforementioned construction, nevertheless, in the present case, the article 364 cited in the code should be considered, as if he were a builder in good faith, because the house was erected with the patience and silence of the nuns. Subsequently, he proceeds to refute the prejudices that the nuns claim to have suffered due to the proximity of the sisters' house, and he explicitly denies that any notification of the new construction occurred on the part of the nuns, or, if it did, he, yielding to the authority of Cardinal De Luca, *De se*, paragraph 7, number 10, considers it to be tacitly waived, since, if there had been an inhibition, the absence of a positive

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and malicious violation on the part of the priest of Osso would be evident. Regarding the second part of the argument, the advocate argues that restitution in integrum should be granted, leaving the sisters in peaceful possession of their house. 1. Because the possession of the sisters is legitimate, since they obtained it by the authority of the Ordinary and have persevered in it peacefully up to the present time. 2. Because the alleged prejudices and servitudes exist only in the minds of the Carmelite nuns. 3. Finally, because it is demanded by the bad faith of the adversaries, and especially of the nuns, since the building was constructed not only without their knowledge and patience, but they themselves insisted on the construction of the disputed house, the demolition of which they now demand, contrary to all laws of justice and equity. RESTITUTION IN INTEGRUM SHOULD BE DENIED. Otherwise, the advocate for the Carmelite nuns believes. He first attacks the argument based on the loss of documents in the archives of the Holy Congregation. He presents two hypotheses: 1. That the documents were not exhibited by the priest's procurator at the opportune time: in this case, he says that restitution in integrum should not be granted, because the fault of the procurator... *Acta, Tom. XXX. fase. CCCLIII. 18*

[*Latin ed. p. 274*]

274. It harms the Lord; on the other hand, these documents were examined in previous proceedings. Another hypothesis, which is considered more plausible, is this: namely, that the documents existed in the records when the case in 1892 was discussed before the Sacred Congregation; but afterwards, they were received in good faith by Father Salvatore, the Penitentiary, and transmitted to the Royal Court of Madrid, as is evident from his own acceptance, which is recorded in the acts of the Congregation. But, the advocate continues, even if it were admitted that the disputed documents did not actually exist in the archives of the Sacred Congregation, this would not constitute a sufficient reason for obtaining restitution in integrum. Indeed, the judgment of the Sacred Congregation in 1892 hinged on whether a res judicata had arisen from the Spanish judgments, and therefore, the sentence of the second Turn of the Spanish Royal Court should be enforced. For this judgment to be formed, nothing relevant was found regarding the lost documents, which were already mentioned in the aforementioned sentence. But, these matters being set aside, even if the Sacred Congregation rendered its judgment for internal reasons of the case, it is certain that restitution in integrum is granted only when newly produced documents notably change the aspect of the case. *De Luca, de iud. disc. 38, n. 19, S. Concil. Cong. in Neapolitana, 10 July 1817.* Now, the newly produced documents, if even superficially considered, are such that there has been consideration of them in the consultation or official record of the Congregation in 1892, in which sometimes even textual expressions are quoted, or in the defense then presented, of which a fragment is now being

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offered. Therefore, since the documents cannot truly be called new, the requested restitution in integrum dissolves into thin air. Then, the advocate proceeds to discuss the merits of the case and precedes with the doctrine sanctioned by numerous decisions of the Holy Roman Rota, namely, that restitution in integrum is not granted against a res judicata, unless it clearly and conclusively appears that an injustice has occurred from which the injury is derived.

[*Latin ed. p. 275*]

DERTHUSEN. 275 Moreover, if the judgment of the Holy Congregation, dated March 11, 1892, were to be reconsidered, it would clearly appear that the Spanish opinions were justly and wisely confirmed: for these opinions are founded on two principles, namely, that the Teresian institution was founded on land belonging to the Carmelites, and that the aforementioned founder from Osso could not possibly have been ignorant of this fact. These two points, it is said, are easily demonstrable and are derived from the documents presented in the official record or in the consultation published by the press in the year 1892. For the decree of June 21, 1876, obtained at the request of the donating Bishop of Derthusen on April 27, 1877, and the letter of the aforementioned donor of June 27, 1891, clearly indicate the donor's intention that the entire property should be transferred to the ownership of the Carmelite nuns: these nuns accepted the donation, and the donor swore that the aforementioned donation would never be revoked; therefore, even if it were admitted that the donor subsequently revoked part of the donation, such revocation could have no weight. Furthermore, the fact that the priest from Osso was not ignorant of the property's ownership is proven by the simple reason that he was one of the trustees of the aforementioned donor, and therefore he must have been perfectly aware of his intention. With these facts established, the advocate argues that the priest from Osso must be compelled to demolish the building. For reason and law require that the owner of the land, on which a building has been knowingly, that is, in bad faith, constructed, should suffer no damage or prejudice: in this case, the nuns suffer a servitude from the nearby college, since their freedom is diminished because one can see from the college windows into their garden and rooms; it is true that uncultivated land reverts to the owner, and that a building constructed in bad faith loses its property and can only recover the value of the materials; but when the building proves to be harmful to the owner of the land, the builder in bad faith can be compelled to demolish it at his own expense; although this is not expressly stipulated by the laws of the Romans, it is nevertheless found to be sanctioned by modern laws.

[*Latin ed. p. 276*]

276. DERTHUSEN. Finally, the Orator refutes the objection raised,

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namely that all Spanish opinions, except for the second ruling of the Royal Tribunal of Matritensis, have recognized good faith in the priest of Osso. He responds that all Spanish opinions agree on one point, namely, in the demolition of the building in question, and in this respect they have been confirmed by the ruling of the second turn of the Royal Tribunal. As for the other part, namely, the question of good faith, they have been corrected, because all have admitted that the priest of Osso knowingly built on another's land, in which consists bad faith, and they were only in disagreement in determining the responsibility. Therefore, rightly, they were reformed in this point. With these two points established, the basis for the following question was laid: Whether and how restitution in integrum should be granted in the case of i RESOLUTIO. The Sacred Congregation of Bishops and Regulars, after various investigations, finally, on March 26, 1897, responded to the matter discussed: Negatively in all respects, and extensively. FROM THE SACRED CONGREGATION OF INDULGENCES, DECREE URBIS et QRB1S concerning the erection and aggregation of pious Unions or Societies, etc. Since, in these times, almost countless pious Unions or Societies have arisen in the Church, which, although sometimes adorned with the name of confraternities, are by no means to be considered among the true and properly called confraternities; it has rightly been questioned whether the laws, which from the Constitution of Clement VIII, which begins: "Quaecumque," were prescribed for confraternities and congregations, should be applied to these new pious Unions or Societies. Furthermore, the question has been raised for some.

[*Latin ed. p. 277*]

FROM SACRED CONGREGATION OF INDULGENCES, 277: Confraternities belonging to Regular Orders are subject to the consent of the Ordinaries, insofar as they are established in the churches of those same Regular Orders. Therefore, the following questions, to be resolved, have been presented to this Sacred Congregation, which presides over Indulgences and Sacred Relics:

I. – Do Pious Unions or Societies, which in no way fall under the name of Confraternities and Congregations, fall under the sanctions of the Constitution of Clement VIII, which begins "Quaecumque" ["Whatsoever"]?

II. – Is the consent of the Ordinary necessary for the erection of Confraternities, such as the Most Holy Trinity, the Most Holy Rosary, the Blessed Virgin Mary of Mount Carmel, or the Virgin of Sorrows, or others of this kind, which are established by Religious Orders in their respective churches?

And the Eminent Fathers, assembled in the Vatican buildings in a general Congregation on August 5, 1897, responded to the proposed questions as follows:

To I: Affirmative, as regards the erection or institution, as regards the

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approval of the statutes, as regards the aggregation, and as regards the publication of Indulgences.

To II: "If it concerns Confraternities properly so-called, that is, constituted as an organic body and with statutes, Affirmative; if it concerns Confraternities widely accepted, sufficient provision is made by the consent given by the Ordinary for the erection of a Convent of the Order in the Diocese."

Regarding all of these matters, a report was made to His Holiness, Pope Leo XIII, in an audience held by the undersigned Cardinal Prefect on August 25, 1897, and His Holiness approved the resolutions of the Eminent Fathers.

Given in Rome, from the Secretariat of the same Sacred Congregation, on August 25, 1897.

[Signature]

Fr. HIERONYMUS M. CARD. GOTTI, Prefect.

[Signature]

L. S. f A. ARCHIEP. ANTINOEN., Secretary.

[*Latin ed. p. 278*]

278 FROM THE SACRED CONGREGATION FOR INDULGENCES: DECREE concerning the inscription of the souls of the deceased with pious confraternities, pious unions, and pious works, for the City [of Rome] and the whole world. Since, after the Decree issued by the Sacred Congregation of the Holy Office dated December 6, 1876, and also the Resolution of the Sacred Congregation for Indulgences and Sacred Relics dated August 14, 1889, the Directors of pious unions and pious works have been inscribing the deceased with these pious unions and pious works, this Sacred Congregation has inquired: Whether, given the Decree of the Sacred Congregation of the Holy Office of December 13, 1876, and the Resolution of this Sacred Congregation of August 14, 1889, the inscriptions of the deceased with pious unions and pious works can be maintained? And the Eminent Fathers, in the general meetings held in Vatican, on August 5, 1897, responded: Negatively. In an audience held by the undersigned Cardinal Prefect, on August 25, 1897.

F. R. HIERONYMUS M. CARD. GOTTI, Prefect.

U. S. ALEXANDER ARCHIEP. ANTIOCHENUS, Secretary.

DECREE – SQUILLACENSIS Concerning the Indulgence attached to the privileged altar. The Bishop of Squillace presented the following questions to this Sacred Congregation for Indulgences:

I. – Can the Indulgence of the Privileged Altar be separated from the application or fruit of the Sacrifice, when the Sacrifice is to be celebrated for the deceased?

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II. – Can the same Indulgence of the Privileged Altar be separated, when the Sacrifice is celebrated for the living, so that the aforementioned Indulgence can be applied for the deceased at the discretion of the celebrant?

III. – How is the inscription to be understood, which is found on some altars, of this tenor: "Privileged Altar for the living and the deceased"?

And in the general Congregation held in the Apostolic Palace in Vatican, on August 5, 1897, the Eminent Fathers responded: To I and II: Negatively.

[*Latin ed. p. 279*]

279 To the Third Class: It must be understood in such a way that, whether it is for the living, if the Sacrifice of the Mass, which is celebrated in the altar in question, is offered for the living, a Plenary Indulgence is granted; for the living, according to the law, and for the deceased, according to the practice of suffrage. And having presented the following report to His Most Holy Eminence, Cardinal Prefect, concerning these matters, to His Holiness Pope Leo XIII, in an audience held on August 25, 1897, the Most Holy Father approved and confirmed the responses of the Cardinals. Given in Rome, from the Secretariat of the same Sacred Congregation, on August 25, 1897. FROM THE SACRED CONGREGATION OF INDULGENCES, Father JEROME M. CARDINAL GOTTI, Prefect. L. * S. i A. ARCHBISHOP ANTOINEN, Secretary. FROM THE SACRED CONGREGATION OF RITES, Doubts concerning a consecrated church, and innovations subsequently made. NICOTEREN and TROPIEN. – Most Reverend Lord, Dominic Taccone-Gallucci, the present Bishop of Nicoteren and Tropien, humbly presents the following to the Sacred Congregation of Rites, requesting a suitable solution to the doubts and the necessary permission; namely: Before the year 1880, innovations were made in the Cathedral Church of Tropien, which had been consecrated in the preceding century, namely: The larger marble altar, which was located behind the Choir, or the seats of the Canons and Mansionaries, was removed and finally built into the wall, while the choral seats remained in front of it, and it requires a new consecration. Furthermore, the entire plaster coating of the walls and arches was removed, and partly it was rebuilt and painted again, and partly it was replaced with marble panels. Also, several marble altars have in the middle a square stone block, in the form of a portable altar, secured with cement. Hence, the following is asked: I. Has the Cathedral Church of Tropien been desecrated, because the entire plaster coating was removed? II. And, assuming the answer to I is negative, since the same Church needs to be restored due to the long period of construction, the Bishop...

[*Latin ed. p. 280*]

FROM THE CONGREGATION OF RITES 280: Concerning the Tropaeum, it is requested that the faculty be granted to a priest to administer such

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reconciliation or blessing. III. Since the aforementioned altars, constructed with four stones in the center, having been consecrated in the manner of altars for the Laity, whose table consists of a single stone, with a stone pillar adhering to each side, the same Bishop requests that, for the purpose intended, there be a remedy concerning the past and a dispensation concerning the future, so that in the same altars, the Sacred rites may be performed in the future, as has been done up to now. And the Sacred Congregation, after due deliberation, with the aforementioned Secretary present, decided to respond as follows: To I: Negatively, according to the Decree of June 8, 1896. To II: For the benefit. To III: For the benefit, so that there may be both a remedy and a dispensation to achieve the intended effect. However, the Bishop should ensure that portable altars are replaced with fixed ones. And thus, it responded and granted the requested faculties by Apostolic authority. August 9, 1897. L. M. D. Cardinal PAROCCHI. PANICI, 5. R. C. Secretary. FROM THE SECRETARY: A BRIEF CONCERNING THE CELESTIAL PATRON OF EUCHARISTIC SOCIETIES, SAINT PASCHAL BAYLON. Providentissimus Deus, powerfully and gently arranging all things, has foreseen the needs of His Church with a singular care, so that when matters seem to be in the most deplorable state, He may raise up unexpected consolations from the very bitterness of the times. This is evident, as often as in other times, especially in these times of Christian and civil affairs. For when the forces of common tranquility, becoming more and more insolent day by day, with a daily and most powerful assault, seek to destroy the Christian faith and almost the entire society, it has pleased divine goodness to oppose to these upheavals outstanding works of piety. This is clearly demonstrated by the widespread devotion to the Most Holy Heart of Jesus, and by the aroused zeal everywhere.

[*Latin ed. p. 281*]

From the Brief of the Secretariate of the 28th of [month], concerning the rare promotion of the cult of Mary, and the increased honors of her most blessed Spouse, and the gatherings of Catholics prepared in every way for the defense of the faith, and other matters, all of which, while pleasing our heart most sweetly, we believe to be of great importance, increased in the people through the devotion to the Sacrament of the Eucharist, which gatherings have been celebrated with great fervor during these times. For nothing, as we have stated elsewhere, seems more effective in stirring the minds of Catholics, both to zealously profess the faith and to practice the virtues worthy of the Christian name, than to nourish and strengthen the devotion of the people in that admirable pledge of love, which is the bond of peace and unity. Therefore, since this is a matter of such great importance, just as we have often praised the Eucharistic gatherings, so now, moved by the hope of abundant fruit, we deem it fitting to assign a heavenly

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patron to them from among the saints in heaven who have burned with the most ardent affection for the most august Sacrament of the Body of Christ. Among those whose piety in this most excellent mystery of faith has been seen to burn more intensely, the most worthy place belongs to PASCHAL BAYLON. He, having received a soul most eager for heavenly things, after spending his youth innocently in the care of the flock, embraced a stricter way of life in the Order of the Minor Observance, and through contemplation of the divine banquet, he merited to acquire knowledge, so that, being uneducated and ignorant of letters, he was able to answer on the most difficult matters of faith and to write pious books. This same Paschal publicly and openly professed the truth of the Eucharist, and, emulating the martyr of Tharsus, he suffered much and severely from the heretics, and was often sought after even for death. Indeed, even in death, his affection for piety seemed to remain: for it is said that, lying in his coffin, he opened his eyes twice during the elevation of the two sacred species. Therefore, it is clear that the gatherings of Catholics, of which we are speaking, could not be better served. Therefore, just as we have commendably recommended Vincent of Paul for the associations of charity; Camillus de Lellis and John of God for the sick and those who assist the sick; so, for the good and well-being of the Christian cause, we, with our supreme authority, commend...

[*Latin ed. p. 282*]

282 BY A BRIEF FROM THE SECRETARY, We declare and establish Saint Paschal Baylon as the heavenly Patron of all eucharistic gatherings, as well as of all societies devoted to the Most Holy Eucharist, whether those already established or those that may be founded in the future. And from the example and patronage of the same Saint, We confidently implore this fruit, that from among the Christian people, more and more daily may turn their minds, their intentions, and their love towards Jesus Christ, the Savior, the supreme and most august principle of all salvation. This shall be valid for all times, present and future, notwithstanding anything to the contrary. We decree that, as regards these present letters, whether copied or extracted, or even printed, and signed by a public Notary, and sealed with the seal of a person holding ecclesiastical office, the same full faith shall be given to them, as would be given to the present letters if they were exhibited or shown. Given at Rome, at St. Peter's, under the Fisherman's Ring, on the 28th of November, 1837, in the fifth year of Our Pontificate. ALOIS. CARD. MACCHI.

A Brief concerning the solemnities to be celebrated at Carpineto, on the occasion of the sixth centenary of the death of Saint Louis, Archbishop of Toulouse.

The news that has been brought to Us, filled Our mind with a certain agreeable feeling, concerning the preparations being made at Carpineto, with singular devotion and piety, for the solemnities in memory of Saint

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Louis, Archbishop of Toulouse, on the occasion of the sixth centenary of his death, after he, having lived a life so holy, so illustrious in virtue, and so renowned in the region of Glaris, passed from this mortal life to the immortal and blessed. Our ancestors, with excellent wisdom, chose him as their heavenly Patron, so that, since he was, while he lived, an example of all virtue, they might have someone to imitate; and since his grace is now so powerful with God, they might have a protector and advocate, whom they could invoke in every circumstance of life. And Our people have known and clearly felt, time and again, that they are in the faith and devotion of Saint Louis; for great are the benefits which he has conferred upon Our people at all times, the memory of which benefits will never perish among Us, nor will their grace grow old. Among these, it is fitting to recall that which is most esteemed by Us,

[*Latin ed. p. 283*]

From the Brief Secretary, number 283, and which serves as a reminder, follows a series of names related to Saint Louis, and the feast day celebrated annually at the church of Saint Peter the Elder, belonging to the Order of Saint Francis, of the Reformed. It is remembered that our ancestors, having been bound in a barren marriage for four years, were greatly inflamed with the desire for offspring, and in order to obtain this, they earnestly invoked their heavenly patron, Saint Louis. Less than a year later, their prayers were answered with the birth of a son, to our parents, to whom the name Louis was given. It is not unknown, nor is it new, to the inhabitants of Carpineto, how our family reveres and honors Saint Louis, both our ancestors and our forebears having done so. Therefore, they know that we, above all, and our people, will be most pleased and grateful when they offer honors to him. Therefore, these celebrations, bearing the name of Saint Louis, greatly delight us, and we desire that through us, some addition be made to their ornamentation and splendor. And since, by the highest grace of God and the gift of the heavenly Graces, we have been deemed worthy to be a treasure, we have decided to open this treasure in these celebrations for the spiritual benefit of the Christians. For it is not hidden that the honors offered to the blessed in heaven are all the more pleasing and acceptable, the more fruitful they are for those who offer them. Therefore, that the honors offered to Saint Louis in Carpineto may be more pleasing, and that all Christians may, through the celebrations, gather and receive abundant fruits, we, confident in the mercy of Almighty God and the authority of the Blessed Apostles Peter and Paul, grant, with a full and plenary indulgence for all their sins, to all and each Christian of both sexes, who on the thirtieth day of the month of August, on which the secular feast is celebrated, having truly repented, confessed, and received Holy Communion, devoutly visit the church of Saint Peter the Elder, belonging to the Order of Saint Francis, of the Reformed, and there offer pious prayers to God for the concord of

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Christian princes, the eradication of heresies, the conversion of sinners, and the exaltation of the Holy Mother Church. Furthermore, since a solemn supplication is to be held for three days before the aforementioned feast, we grant to those same faithful, at least with contrite hearts, who attend the aforementioned supplication on any one of the three days, and who, as stated above, pray, a remission of seven years and forty days of the penances prescribed to them, or any other debts, according to the usual practice of the Church.

[*Latin ed. p. 284*]

284 FROM THE SECRETARY'S OFFICE, We generously grant indulgences, remissions of sins, and relaxations of penances, even for the souls of the Christian faithful who, united to God in charity, have departed this life, that these may be applied as a form of suffrage. These are valid only this year. Given in Rome, at Saint Peter's, under the Fisherman's ring, on the 28th of July, in the year 1897, in the twentieth year of Our Pontificate. A. Card. MACCHI. FROM THE HOLY CONGREGATION OF THE ROMAN AND UNIVERSAL INQUISITION. *r REGARDING doubts concerning the use of the faculties with which a Bishop possesses, regarding dispensations of the internal and external forum, as well as those which remove impediments and those which impede. Most Blessed Father, the Bishop of Mysore, prostrate at Your feet, humbly explains that he sometimes finds himself hesitant in the use of the faculties of cumulation (as they are called), with which he is empowered to grant matrimonial dispensations. Therefore, he earnestly requests a resolution of the following doubts: I. Whether, when a secret impediment, or of the internal forum, is present together with another impediment, which is also a diriment impediment, but public, is a special faculty of cumulation necessary for the dispensation? II. Whether, when two impediments are present, one of which is a diriment impediment and the other only an impeding impediment, except as is said by those of mixed religions, is a special faculty of cumulation necessary for the dispensation? Feb. IV, 18th August 1897. In the General Congregation of the Roman and Universal Inquisition, held by the Most Eminent and Most Reverend Cardinals, General Inquisitors, after the aforementioned doubts were proposed, and after the vote of the Most Reverend Consultors, the same Most Eminent and Most Reverend Lords ordered that the following be answered: To I. Negatively; and let the Decree of the 31st of March, 1872, in Coimbra, be given.

[*Latin ed. p. 285*]

From the Sacred Congregation for the Inquisition, 285, Ad II. Regarding affirmative cases concerning impediments that impede marriage, for which dispensation is reserved to the Holy See, namely those arising from mixed

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religion, as they say, and from betrothals and from a simple vow of perpetual chastity; otherwise, in other cases, the Bishop may exercise his proper jurisdiction. On Thursday, the 20th of the same month and year, during the usual audience granted to the Reverend Father Assessor of the Holy Office, a report was presented to His Holiness Pope Leo XIII, and the Most Holy Lord approved the resolution of the Most Reverend and Right Reverend Fathers in all respects. The decree, given on March 31, 1872, concerning a doubt proposed by the Reverend Father, the Apostolic Vicar of Coimbra, as it appears from the acts of the Sacred Congregation for the Propagation of the Faith, reads as follows: "His Holiness declared that the general prohibition of granting special dispensations, when matrimonial impediments concur in the same person, does not extend to those cases in which, along with a public impediment, another hidden or internal impediment occurs."

I, Canon Mancini, Sacred Roman and Universal Inquisitor, Notary.

A DOUBT concerning the Ordination of a Priest due to the lack of the imposition of hands.

Most Blessed Father,

The Bishop N. N., prostrate at the feet of Your Holiness, humbly explains that, during the ordination of the Priest B., through mere forgetfulness, the imposition of hands by the assisting priests was omitted, and the Bishop himself does not recall (nor do the others) whether he held his hands raised over the head of the candidate during the second imposition, when the prayer "Oremus fratres carissimi etc." was recited. He therefore requests the supreme judgment to know what he must do.

On Thursday, March 17, 1897, in the General Congregation of the Sacred Roman and Universal Inquisition, held by the Most Reverend and Right Reverend Cardinals, General Inquisitors, concerning the aforementioned doubt, the same Most Reverend and Right Reverend Fathers ordered that the following be responded: "The Priest B. shall be ordained secretly and under any condition obtained from the Most Holy See, even on a weekday."

[*Latin ed. p. 286*]

286 From the Sacred Congregation of the Inquisition: Following this, on the fifth day of the same month and year, during the customary audience granted to the Reverend Father Assessor, a report on all of this was presented to His Holiness Pope Leo XIII, and the Holy Father approved the resolution of the Fathers of the Eastern and Roman Rites, granting the faculty. I, Canon Mancini, Sacred Roman and Universal Inquisitor, Notary.

A DOUBT concerning the ordination of a priest, in which it is believed that the paten may not have been touched.

Most Blessed Father, the Priest N. N., prostrate at the feet of Your Holiness, humbly explains that during his priestly ordination, when he was about to receive the instruments, he approached the Bishop along with the

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others; but he doubts whether he touched the chalice together with the paten; it seems to him that he did not touch the paten. He therefore requests guidelines for the tranquility of his conscience.

Wednesday, the fourth day of the week, September 7, 1897. In the General Congregation of the Sacred Roman and Universal Inquisition, held by the Most Eminent and Reverend Lords Cardinals, General Inquisitors, regarding the aforementioned doubt, it was ordered that the following be answered: "Let it be so."

On Friday, the sixth day of the same month and year, during the customary audience granted to the Reverend Father Assessor, a report on all of this was presented to His Holiness Pope Leo XIII, and the Holy Father approved the resolution of the Fathers of the Eastern and Roman Rites. I, Canon Mancini, Sacred Roman and Universal Inquisitor, Notary.

Faithful Catholics traveling through foreign lands outside of Spain may not partake of meat, even if they enjoy the Lenten indulgence and the *Bulla Cruciatae*.

Thursday, the fourth day of the week, June 22, 1897. In the General Congregation of the Sacred Roman and Universal Inquisition, held by the Most Eminent and Reverend Lords Cardinals, General Inquisitors, concerning the aforementioned doubt: "Whether faithful Catholics who enjoy the *Bulla Cruciatae* and the Lenten indulgence, and... "

[*Latin ed. p. 287*]

287 FROM THE SACRED CONGREGATION: "Those who are traveling outside the boundaries of the Spanish jurisdiction, may they partake of meat on forbidden days in the same manner as if they were in Spain, even if there is no lack of nourishing food?" After careful examination by all, and with the vote of the Most Reverend Consultors preceding, the same Eminent and Reverend Cardinals were commanded to respond: "No." On Friday, the 4th of June of the same month and year, during the usual audience granted to the Reverend Father Assessor, after a careful report was made concerning the above, His Holiness, Pope Leo XIII, approved and confirmed the resolution of the Most Eminent Fathers. I. CAN. MANCINI, S. B. and U. I. Not. FROM THE SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH: A new Apostolic Prefecture is established in Rhodes. DECREE.—August 14, 1897. Since a dispute arose concerning whether the island of Rhodes should be considered subject to the ordinary jurisdiction of the Apostolic Vicar of Asia Minor, or rather to the Superior Mission of the Order of Friars Minor in Constantinople, which, under the title of Apostolic Prefect, has governed the aforementioned mission of Rhodes for nearly a century; the matter was brought before this Sacred Congregation for judgment. Furthermore, the Most Eminent Fathers, in two General Assemblies held on May 10th and July 19th of the present year, after carefully examining the matter, and after considering

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other reasons diligently, finally decided that: the island of Rhodes, together with the islands of Lini, Nissyros, Scarpanto, Castellarizo, Cos, Stanchiò, Chachi, Leros, Calymnos, Pserimos, Tilos, and Cassos, should, with all authority, be removed from the aforementioned Apostolic Vicar of Asia Minor, and should constitute an Apostolic Prefecture, to be served by the aforementioned Order of Friars Minor, with its own independent Apostolic Prefect of Rhodes residing there, and to be appointed according to the custom of this Sacred Congregation. The opinion of the Most Eminent Fathers, on the audience of the 10th of this month, was reported to His Holiness, our Lord Pope Leo XIII, by the aforementioned Archbishop of Larissa, Secretary of this Sacred Congregation, and the same Holy Father...

[*Latin ed. p. 288*]

288 From the Sacred Congregation for the Propagation of the Faith, this document has been ratified and approved, and the present decree is ordered to be carried out. Given in Rome, from the offices of the Sacred Congregation for the Propagation of the Faith, on the 14th of August, in the year 1897. M. CARD. LEDOCHOWSKI, Prefect. A. ARCHIEP. LARISSEN, Secretary. The faculty to celebrate the Mass of the Immaculate Conception on Saturdays is granted to Franciscan tertiary priests.

Most Blessed Father, Father Luigi from Parma, General Minister of the Order of Friars Minor, prostrated in reverence before Your Holy Feet, humbly states that, although it has been granted to the Franciscan tertiaries to enjoy the spiritual privileges granted to the Friars Minor, there is doubt whether the tertiary priests can, on Saturdays, say the votive Mass of the Immaculate Conception, as was granted to all the Friars Minor in their churches, and subsequently extended also to the churches of the Apostolic Vicariates entrusted to the Franciscans in China. Now, since in China the secular priests of our nine Apostolic Vicariates are generally all tertiaries and use the Franciscan missal, the humble petitioner implores Your Holiness to grant that the same tertiaries of the Franciscan Vicariates in China may have the privilege of being able to say the votive Mass of the Immaculate Conception on Saturdays, on which days the friars of the First Order may also celebrate. That the grace, etc. From the audience of the Most Holy Father, on the 7th of September, 1897. His Holiness, Leo XIII, Divine Providence, Pope, having graciously deigned to approve the requested extension, with the usual stipulations, concerning the matter presented by the undersigned Secretary of the Sacred Congregation for the Propagation of the Faith. Given in Rome, from the aforementioned offices of the Sacred Congregation, on the day and year as above. For the Reverend Father, the Secretary, C. LAURENTI.

NOTE: Correct page 254 of this volume, in the rewritten section of Indulgences, line 3, the first sixth word should be: ”prima quinta”; and on page

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255, line 1, add ”dummodo” before the word ”tamen.”

[*Latin ed. p. 289*]

COMMENTARY 289. 1°. Because the legislator speaks of books and writings; and by the term ”books,” periodicals and newspapers are not included; although, by the term ”writings,” any kind of composition or work may be understood, those which, by their very nature, treat explicitly of forbidden matters are not, strictly speaking, periodicals or newspapers, since these primarily deal with political and public affairs, and if they mention supernatural things, it is only incidentally and by chance. Therefore, the legislator did not intend to include periodicals and newspapers when he spoke of books and writings. 2°. Because it is impossible to prevent such publications, since some of the writers of periodicals are concerned about ecclesiastical censure, others disregard it, and still others are granted permission or dispensation because of their usefulness, custom, or other reasons; and, most importantly, in the new law, the writers of periodicals are not required to submit their writings for prior ecclesiastical censorship. And, furthermore, the legislator does not command that those things which cannot be prevented, especially if they are not intrinsically evil, be prohibited, because otherwise he would be enacting an ineffective law. Nor can it be objected that some of the writers of periodicals will obey the legislator’s will. But to whose will will they obey, when prior ecclesiastical censorship is not required for the writers of periodicals? And what good will result, when the end intended by the legislator cannot be achieved? For although some may obey, yet such accounts, visions, etc., are spread everywhere by others; and true children of the Church cannot avoid reading such accounts, since they do not know beforehand what is contained in the periodicals. Therefore, someone might ask, why did the legislator prohibit such books and writings, if he knew that he would not achieve the end he intended? The legislator, we must reply, prohibited books and writings under the category of which periodicals and newspapers do not fall; and he achieves the intended end perfectly well, when the faithful are warned to abstain from reading such things, and when the authors, if they are Catholics, will not publish such books and writings, lest they lose many readers and buyers. Moreover, books and writings that explicitly treat of forbidden matters bring about more serious evils than periodicals, which only incidentally mention such things and are quickly forgotten. Finally, the end intended by the legislator is not any arbitrary end, but that which flows from the words of the law; and this is to avoid evil acts (Acta, Tom. XXX, fase. CCCL1I1).

[*Latin ed. p. 290*]

290 COMMENTARY: Those things which arise from books and writings containing accounts of new apparitions, etc., are subject to different regula-

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tions than other matters which originate from other sources. Therefore, the reason for each case is entirely different. 3°. As we have already pointed out, the legislator in the present paragraph seems to be speaking of books and writings which explicitly treat of new apparitions, visions, miracles, etc., or at least of which the principal subject matter consists of such narratives; whereas in newspapers and other periodicals, such matters and events do not constitute a principal subject. 4°. Furthermore, the practice of publishing such supernatural events in public newspapers has been so widespread that neither Bishops nor the Apostolic See have been concerned about it. However, it is not so easy to condemn what is commonly done, especially when the prelates of the Church are silent. Nevertheless, we urge the editors of Catholic periodicals to be cautious, and to limit themselves to a simple narration of events, without pronouncing on the nature or supernatural character of these things. II. But besides new apparitions, visions, and miracles, this paragraph also prohibits books and writings which introduce new devotions, even if they are presented as private, if they are published without legitimate permission from ecclesiastical superiors. This is a most salutary provision of the Pontiff; for so many books, pamphlets, and leaflets of new devotions are disseminated, that they cause no small confusion, and rather than promote piety, they diminish it. It often happens that, despising those devotions which are either prescribed or recommended by the Church, some souls devote themselves to devotions which please them, and which have not been approved by legitimate authority. Therefore, it must be brought to the attention of all the faithful of Christ that our first and foremost devotion must be to the Most Holy Trinity, then to Christ our Redeemer, and afterwards to the Blessed Virgin Mary, followed by devotion to the Saints, Angels, and Apostles; we believe that other devotions should not be preferred to these; indeed, if order and right reason must be maintained in all things, much more so in those things which pertain to piety. However, new devotions, like new apparitions, etc., are not absolutely and intrinsically prohibited, but rather, for the most part, they are not prohibited, since sometimes they can be good and conducive to piety.

[*Latin ed. p. 291*]

COMMENTARY 291: They may be able to do so, but solely because of the lack of legitimate authority granted by ecclesiastical superiors. However, they rightly exercise their authority, since it pertains to them to know what is presented by the faithful for the purpose of piety; namely, whether it is truly pious, and whether it conforms to the doctrines received in the Church, to historical truth, to the common sense of the Church and the faithful, etc. It does not matter whether it has been published publicly or privately, and whether it has been approved or not; indeed, publication is also prohibited for this reason; and indeed, wisely so; for we must guard

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against the spiritual dangers that new devotions can introduce, whether publicly or privately; and it is then difficult for those things, once published, to remain private, so that they are not adopted for public use by many, even by those who are not experts and by the leaders of the Church. Indeed, many are so carried away by enthusiasm for certain devotions that they believe that they will attain eternal life only through them, even though they neglect the observance of other divine commandments, or at least that they will not attain it without them. We know the reasons why many devotions have been condemned by the Most Holy Congregation; and as an example, let us cite the title given to the Most Sacred Heart of Jesus, attributed to Saint Joseph; also, the title attributed to the Blessed Virgin Mary, Our Lady of the Most Sacred Heart, in the sense that she exercises dominion over her Son, which cannot be piously asserted, as the Most Holy Inquisition stated in a letter of February 23, 1875, to the Bishop of Presmilien in Galicia. {b} Also, the emblems of the Most Sacred Heart of Jesus in the Eucharist, which...

(a) I will relate a fact. I knew a man who, having divorced his legitimate wife, whom he had only led before the Church, when he went to another town, married another woman before a civil magistrate, deceiving the parents of the girl, to whom the Syndics issued testimonial letters affirming that he was completely free from any marriage bond. When I had stayed in that town for several days, where there was no priest, and the Bishop had granted me all the faculties that he could grant me, I tried to remove that scandal, especially because it was unique. Therefore, having received that man, I tried to persuade him to dismiss his concubine and to bring back his legitimate wife. Among other things, I said to him: Whatever it may be, you are in a state of damnation, and if God calls you to his tribunal, and you dismiss the concubine, and you are cast into hell. "No," he replied to me, "it will not be as you say; for I recite every day to a certain Saint (I have forgotten the name) so many Pater, Ave, and Gloria, that I will obtain forgiveness for all my sins, and I will certainly be saved." And yet he lives in concubinage. (b) Acta S. Sedis, VIII, 361.

[*Latin ed. p. 292*]

292 COMMENTARY: In a decree dated June 3, 1891, it is stated that certain new emblems of the Most Holy Heart of Jesus in the Eucharist are not to be approved by the Apostolic See, because the devotion to the Most Holy Heart of Jesus in the Eucharist is not superior to the devotion to the Eucharist itself, nor is it distinct from the devotion to the Most Holy Heart of Jesus; rather, it is a certain manner of honoring the Face of the Redeemer as a distinct object, which certainly implies a direct and special act of worship (a); also, the title "Most Sacred Heart of the Penitent" was, by decree of July 15, 1893, entirely prohibited and condemned by the Most Holy Universal Inquisition: "Heart of Jesus the Penitent. Heart of Jesus the

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Penitent for us. Jesus the Penitent. Jesus the Penitent for us" (c). The prayer for the reign of Christ and the Immaculate Mary over all creatures, the feast to be promoted concerning the Most Precious Blood of Mary, concerning which the Supreme Inquisition condemned books, on Thursday, January 13, 1875 (d). It is, however, proper to note that in many of these decrees, the Supreme Inquisition added a warning, so that at times the faithful might abstain from these novelties. "The Most Holy Lord, Our Divine Pius IX, with His usual provident wisdom, in a private audience granted to the Reverend Father Assessor of the Holy Office, commanded that those writers who sharpen their minds on matters that suggest novelty, and who, under the guise of piety, seek to promote customary devotions even through ephemerides, should cease from their purpose, and that they should be aware of the danger of leading the faithful into error, even concerning the dogmas of the Faith, and of giving an opportunity to the enemies of the Religion to undermine the purity of the Faith, Catholic doctrine, and true piety" (e). Those who are legitimately authorized to grant permission for the public celebration of new devotions are the Bishops, and other local Ordinaries. However, these new devotions should be such that their use has not been found in previous times; therefore, he does not introduce a new devotion who prolongs prayers in honor of a particular Saint, or other such devotions, which have been approved by legitimate ecclesiastical authority for several days, or makes them into a week, a month, and embellishes them with commentaries, explains them (a) Acts of the Holy See, XXIV, 573-574. (b) Acts of the Holy See, XXV, 749-750. (c) Acts of the Holy See, XXVI, 319 (d) Acts of the Holy See, VIII, 269. (e) Acts of the Holy See, XXVI, 319 and elsewhere.

[*Latin ed. p. 293*]

COMMENTARY 295. These [prohibited books] are not new, but rather ancient, and are brought back into use by pious individuals. 52. This fourteenth section can conveniently be divided into three parts. In the first, the legislator prohibits books that establish the lawfulness of dueling, suicide, and divorce. In the second, he addresses those who write about Masonic sects and other similar societies, and who contend that these are useful and not harmful to the Church and to civil society. In the third, he condemns books that defend errors that have been condemned by the Apostolic See. Therefore, each of these must be treated separately.

I. At the very beginning, we observe that such books are not prohibited simply because they treat of dueling, suicide, divorce, Masonic sects, or errors condemned by the Apostolic See, but because they defend the lawfulness of these things, or because they deny that the opinions condemned by the Apostolic See are erroneous. Therefore, if books treat of dueling, suicide, or divorce, without defending such crimes, or if they describe Masonic sects and other similar organizations, relating their history, rites, prin-

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ciples, doctrines, and methods of operation, without saying anything about their usefulness or approving of them; or if they list errors condemned by the Apostolic See, without challenging the justice and truth of the condemnation, these books are not subject to any prohibition; for they are not prohibited because they treat of these things, but because of the reasons that motivate the authors to write.

II. Furthermore, we observe that these books must treat of the prohibited subjects, either expressly, or at least principally, and not merely incidentally or superficially; for the books are condemned because they treat of these matters; therefore, books in which these matters constitute either the principal subject or a significant part, are subject to condemnation. This is even more evident when we consider that these books must establish the lawfulness of dueling, suicide, and divorce, the usefulness of Masonic sects, and the truth of the errors condemned by the Apostolic See. To establish these things, the authors must employ arguments that are, in some way, complete; that is, they must strive to achieve the end they have set for themselves. This is further demonstrated by the very words used by the legislator. For to "establish" something is to firmly decide and confirm it; but nothing is firmly decided or confirmed by mere assertions or superficial statements. Therefore, the legislator's words are most fitting.

[*Latin ed. p. 294*]

29-4 COMMENTARY: He demonstrated that he condemns books that explicitly treat of prohibited actions, even though he does not distinguish between books and books. After these things: A duel is the fight of two or a few persons, by agreement. Otherwise: A fight between two or a few, undertaken by agreement, with the danger of death, mutilation, or injury. Doctors affirm that this private duel (for we do not speak of a public one, or one legitimately instituted by authority for a just purpose) is permissible only in these cases: either when a person, having been provoked, cannot avoid death by any other means than by accepting the duel; for one can expose oneself to the danger of death in order to free oneself from certain and unjust death; although, unless we are mistaken, in this case the acceptance of the duel might be considered as a just and necessary defense of oneself; or when someone provokes an adversary in a just war, or accepts a challenge; for it is a kind of beginning of war, which thereafter can scarcely, or not at all, be conceived without the will of the supreme leader; or when it is undertaken to end a war; or when two justly condemned persons are reconciled with each other, and by a duel, appointed by a judge, are made mutual executors of their sentences, and according to the law that the victor is given life. Furthermore, no other reasons can be offered to establish the lawfulness of a private duel; not the display of strength, nor the skill in fencing, since this is a vice of vanity, and is forbidden by any just law; not the defense of honor, nor the avoidance of infamy and disgrace, since this

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is the most unsuitable and entirely uncertain means; not the avenging of an injury received, nor the clearing of a crime imputed, nor the defense of temporal goods, for the same reason; so that those who defend the lawfulness of duels should be driven out as if they were madmen, so that they might expose such arguments to the madmen dwelling there. Then the Fathers of the Council of Trent, and the Roman Pontiffs, condemned private duels; and the former, in Session XXV, cap. XIX, concerning the reform of abuses, called the use of duels abominable, and introduced by the devil to the ruin of both bodies and souls, and therefore to be utterly eradicated from the Christian world. Emperors, kings, and other supreme princes, by permitting this, incur excommunication, are deprived of their ecclesiastical privileges, if a duel has been carried out in their territories; those who duel and their seconds are subjected to excommunication, confiscation of their goods, and perpetual infamy; moreover, they decree that they are to be regarded as murderers.

[*Latin ed. p. 295*]

COMMENTARY 295: Those who ought to be buried with ecclesiastical honors, and whose ecclesiastical burial should be denied if they die in the very conflict; likewise, both participants and spectators are bound by excommunication and perpetual anathema. These punishments may seem severe; but for such voluntary folly, no punishment can be considered too severe. The Fathers of Trent were not the first to condemn the detestable and insane practice of duels; but before them, the Fathers of the Council of Valencia in Gaul, under Pope Leo IV, declared that the one who kills in a duel is to be considered the most wicked murderer and bloodthirsty thief, and the one who is killed is to be considered as his own murderer and the willing instigator of his own death; the Fathers of the Council of Lateran II, held under Pope Innocent II in the year 1130, and the Council of Lateran III, held under Pope Alexander III in the year 1148, and other particular councils, which we shall pass over in silence. The Roman Pontiffs have spared nothing in their efforts to utterly eradicate such wickedness from the Christian world; and to this end, Nicholas I, Celestine III, Eugene III, Innocent IV, Julius II, Leo X, Pius IV, Gregory XIII, Clement VIII, Benedict XIII, and Benedict XIV, among others, have contributed, and their decrees can be found collected by Joseph Pennacchi, in *Commentaria in Constitutionem Apostolicae Sedis*, volume 1, pages 536 and following. Finally, Pope Leo XIII spoke out on this matter on September 22, 1891, in letters addressed to the Archbishops and Bishops of the German and Austro-Hungarian Empires, concerning the evil custom of duels (a). Therefore, in this Constitution, the Pope laments that the custom of duels has prevailed among all nations; and that dueling is contrary to both natural and divine law, since both laws forbid anyone from taking the life of another or wounding him outside of a public cause, unless compelled by the necessity of defending his own

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life. But those who provoke or accept a private challenge, do so without any compulsion, and with the intention of taking a life, or at least inflicting a wound, upon their adversary. He then affirms that there is hardly any pestilence that is more abhorrent to the order of civil life, and that more perverts the just order of the state, than the permission given to citizens to assert their own rights by private force and violence, and to avenge the honor which they believe has been violated. (a) *Acta S. Sedis*, XXIV, 203.

[*Latin ed. p. 296*]

296. The Roman Pontiffs, from ancient times, have enacted the most severe laws against duels, and the wisdom of these laws becomes more evident the more clearly it is shown how unsuitable are those measures that are proposed to defend or excuse this barbaric custom. For the stain of a duel is not removed, which another citizen has brought upon the honor of another, either by calumny or by conviction; although the victor may emerge from the contest, he who, having suffered an injury, has engaged in it, will be judged by all just men to have demonstrated, by the very outcome of the contest, that he is more skilled in fighting or in handling weapons, but not necessarily more virtuous. And what if the same person falls? Would not this, in turn, seem a reasonable and not entirely irrelevant argument for defending honor? But neither can the acceptance of a duel provide any justification for fear, since it is said that those who are provoked fear being considered cowardly if they refuse to fight. For the duties of men are not to be determined by the false opinions of the crowd, but by the eternal standard of right and justice; otherwise, there would be no distinction between honorable actions and scandalous deeds. The very wise among the Gentiles taught that the opinions of the crowd are to be despised; that he is to be considered brave who knows how to bear insults with a calm mind; for courage is a virtue, and virtue consists in that which is in accordance with reason, and is approved by the judgment of God; otherwise, it is foolish and all vanity. Furthermore, even in our own age, lawmakers have sought to restrain duels by public authority and prescribed penalties. But the Pontiff condemns those who believe that duels should be permitted to soldiers, arguing that such a practice is said to foster military virtue; for, first of all, he says, honorable and dishonorable things differ by nature, and they cannot be changed into each other in any way, depending on the status of different people. Indeed, all men, in whatever condition of life, are equally bound by divine and natural law. Therefore, the reason for this indulgence towards soldiers should be sought in the public good, which can never be so great as to outweigh the voice of natural and divine law. Moreover, the very reason of this supposed utility is clearly lacking. For the incentives for military virtue are directed towards making the state better prepared against its enemies. But can this be achieved by that custom, which by its very nature tends to cause, when discord arises

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among soldiers, the death of one or the other from the ranks of the defenders of the homeland?

[*Latin ed. p. 297*]

COMMENTARY! 97. The Pontiff does not fail to observe that modern men shamefully contradict themselves when they enter into disputes; for, while they reject those things which are contrary to the manners of more recent times, they nevertheless maintain a conflict which originated in the remnants of a more primitive age and of foreign barbarity. This has been acutely and wisely stated by Leo XIII, and we earnestly beseech the Best and Greatest God that, on account of the wickedness of men, He may not lose His voice and His care. It is considered a crime when someone takes his own life; for this is a voluntary and direct killing of oneself. No reason is given for committing suicide; on the contrary, we are taught by the light of reason and faith that those who commit suicide gravely sin against God, against themselves, and against society. It is clear that they are true murderers, because they are men and they kill a man; therefore, most wisely says St. Augustine: "For he who kills himself does no other than kill a man" (a). This injustice of the crime has been recognized not only by Christians, but even by pagans. Cicero, in *De Republica*, Book VI, wrote with words worthy of a Christian man: "To every pious man, the soul must remain in the custody of the body, and it must not depart from the life of man without the permission of Him from whom it was given to you, lest you seem to have failed in the duty assigned to you by God." And Aristotle, in *Ethics*, Book III, chapter VII, and Book V, chapter XI, demonstrates with irrefutable arguments that it is contrary to reason and to the natural inclination to kill oneself. What, then, should Christians think, to whom God has commanded: "Thou shalt not kill"? We do not know what name should be given to those who dare to maintain this crime, either from a concept of fortitude, which suicides promote in a contempt for life; or from the idea that we have dominion over the body; or from the notion that, although life is a gift of God, we have nevertheless accepted this gift in such a way that we can freely renounce it, if the life granted to us becomes burdensome or is rendered useless to society. Indeed, those who are unable to bear calamities and other misfortunes, or, better, (n) Book 1, *De Cive Dei*, chapter XX. But from chapter 17 to 20, the Doctor discusses more and more profound matters, and recounts reasons and causes by which some might falsely believe it is permissible to kill oneself.

[*Latin ed. p. 298*]

298 "COMMENTARY: They do not want to live, and they take away their own lives, and this was sung by a pagan poet: 'In adverse circumstances, it is easy to despise life.' He acts bravely who can endure suffering. Nor has God granted absolute dominion over life in such a way that He has

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relinquished power over it, nor has He granted it under such a condition that we can destroy it; nor are we ever rendered useless to society, if we wish to be useful to it, and to fulfill our duty; for this usefulness depends on our very existence; but it can never be advantageous to us, if we wish to follow virtue; rather, the sorrows of this life are the ladder to heaven; for we were not born to attain the happiness of this life, but for a future and most blessed one. But those who commit suicide lose both the present good and usefulness of this life, and also the future blessedness forever. However, in our age, perhaps no day passes without suicides; and if the causes are read in public newspapers, they certainly do not indicate courage, nor anything praiseworthy, but rather the greatest weakness of mind, so that we should not call it both foolishness and the greatest crime (a). Divorce, in general, is the separation of spouses from each other; either with regard to the bond, if the natural, which is also sacramental, union is broken; or with regard to the bed, if, while the bond of marriage remains, the union is broken with regard to the use of marriage, the table, the dwelling. The laws and reasons for divorce are governed by canon law; nor does our legislator speak of such divorces as are carried out according to the prescriptions of canon law; but of those which are established by the laws of modern governments, in which no account is taken of either divine or ecclesiastical laws, and which are nothing other than sacrilegious acts, by which even consummated marriages are broken, and the power to enter into new marriages is granted, while the other spouse lives; so that there are men who have two or three wives, or women who are married to two or three husbands. This horrendous crime is condemned by natural, divine, and ecclesiastical law, because it contradicts the purpose and institution of marriage, disturbs peace, is detrimental to the education of children, dishonors both women and men, and increases those evils which Leo XIII laments in his excellent Constitution *Arcanum divinae sapientiae consilium*, promulgated on the 10th (a). Cf. Borgier, *Dizionario di Teologia* at this word.

[*Latin ed. p. 299*]

COMMENTARY, February 29, 1880, which, among other things, states: "For [divorces] are the cause of marital bonds becoming mutable; mutual affection is weakened; pernicious incentives are provided for infidelity; the upbringing and education of children are harmed; an opportunity is given to disrupt domestic harmony; the seeds of discord are sown among families; and the dignity of women is diminished, who are in danger of being considered abandoned if they serve the lusts of men. And since nothing is more effective in destroying families and weakening the strength of kingdoms than the corruption of morals, it is easily seen that divorces, which arise from the depravity of the morals of the people, are most harmful to the prosperity of families and states, and, as experience testifies, they open the door and pave the way to more vicious private and public customs.

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And these evils will be seen to be even more serious if one considers that no restraints will ever be sufficient to control, within certain or previously established limits, once the possibility of divorce has been conceded. But these evils we see daily with our own eyes, yet we lament them in vain. Therefore, our legislator rightly and justly condemns those books which declare divorces to be permissible, not incidentally, or as if doing something else, but expressly, as we have demonstrated above (b). But secondly, he also condemns those books which treat of Masonic sects, and which contend that these are useful and not harmful to the Church and to civil society; therefore, he condemns the cause and the reason [for their existence], not because, as we have observed, these books simply treat of Masonic sects, and describe their history, rites, ceremonies, degrees, fates, etc. It is well known that Masonic sects are a grave detriment to both the Church and to civil society; and this is evident from their stated purpose, from the confessions and revelations of many who have participated in them, from the books, catechisms, statutes, which the Masons themselves have published, from the edicts of kings who, from the beginning, have proscribed them and imposed very severe penalties, from those who have undertaken to describe their origins and history (e), and from the Constitutions and Acts of the Holy See, XXII, 385. (b) Cf. Bergier, Op. cit. voce Divorzio. (c) There are more; but we will list N. Deschamps, later Cardinal of the Holy Roman Church: Les Sociétés secrètes et la Société, with an introduction on the Suppression of Secret Societies in the 19th Century, by M. Claudio Jannet, 1882. Never, however..."

[*Latin ed. p. 300*]

300 COMMENTARY: Those who neglected nothing concerning how such societies were founded, and who afflicted their accomplices and supporters with the most grievous penalties. Clement XII, in the year 1738, through the Constitution *In Eminenti*, condemned them, and granted the bishops the power to proceed against Masons as if they were suspected of heresy. Benedict XIV, in the year 1751, confirmed the decrees established by Clement XII through the Constitution *Providas*, and invoked the aid and support of Catholic princes and all secular powers against the Masons, earnestly requesting it. Pope Pius VII, in the Constitution *Ecclesiam a Iesu Christo*, said more against the Masonic sects, and among other things: "It is not necessary to use conjectures and arguments in order to judge their words. The books published by them (the Masons), in which the reasoning is described that is commonly used in the assemblies of the superiors, especially the grand masters, their catechisms and statutes, and other authentic documents, do not fail to demonstrate, and the testimonies of those who have deserted that society to which they previously adhered, have clearly shown through legitimate judgments, their errors and deceptions, that the Carbonari,

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above all, seek to give everyone great license to invent their own religion, according to their own genius and from their own opinions, inducing indifference in religion, from which scarcely anything can be extracted that is not pernicious, such as to profane and pollute the Passion of Jesus Christ through certain of their ceremonies, to despise the Sacraments of the Church (which they seem to wish to replace with new ones invented through the highest crime), and the very mysteries of the Catholic religion, and to overthrow this Apostolic See, which, because in it the principate of the apostolic chair has always flourished, they are afflicted with a singular hatred, and they attempt the most pestilent and harmful things." For this reason, in order to resist the evils that are arising, the first of all [Popes] commanded that the Carbonari should be denounced to the bishops and to others to whom it pertained. However, not long after, on March 13, 1825, Leo XII was compelled again to raise his voice against such sects. We will concede to the author that the Masons also derive their origin from the Templar Order, which was abolished by Clement V; nor do the arguments presented by him disprove this; nor were they stained with those horrendous crimes, of which Philip the Fair and his henchmen accused them; but neither was their Order justly abolished.

[*Latin ed. p. 301*]

COMMENTARY 501: Because he had understood that the insolence of these [sects] had increased, especially on account of their multitude, which was augmented by new sects, among which is especially noteworthy that which is called "University," which has its seat and domicile in many universities. And after having lamented the evils which they inflict upon civil principalities, he adds: "From these also arise the most grievous calamities, with which the Church is almost everywhere afflicted, and which we cannot recall without sorrow, nay, without grief. The most sacred dogmas and precepts are most impudently attacked, its dignity is diminished, and that peace and happiness, which, by its own right, it ought to enjoy, is not only disturbed, but utterly destroyed... Those books which they have not hesitated to write about religion and the state, to which these sects have given their name, in which they despise dominion, blaspheme majesty, and declare Christ either a fable or a folly; nay, they do not rarely teach that there is no God, and that the soul of man, together with the body, perishes, and their codes and statutes, in which they explain their designs and institutions, openly declare all that we have already mentioned, and which tend to undermine legitimate principalities and utterly ruin the Church, originate from them. And it must be considered as certain, that these sects, although differing in name, are bound together by the foulest and most nefarious designs (a)."

And we pass over in silence the Constitution Mirari latam issued by Gregory XVI, and the Constitution Qui pluribus issued by Pope Pius IX.

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However, it is improper to pass over in silence the Constitution Humanum genus issued by Leo XIII on April 20, 1884 (b), in the seventh year of his pontificate, in which the most vile and impious machinations of the Masonic sects are revealed, and the faithful are warned to shun this abomination, while bishops are urged to use the utmost diligence to prevent the flocks entrusted to them from being ensnared by its deceptions. From the beginning, the Masonic sect openly sets forth its aim: "They openly and manifestly strive for the ruin of the Holy Church, and with this purpose, they seek to deprive Christian nations, through Jesus Christ the Savior, of all their benefits, if it were possible."

(a) These Constitutions and other documents are to be read in Pennacchi's Commentary, in *Constitutiones Apostolicae Sedis*, Vol. I, pages 595 and following.

(b) *Acta Secreti Sedis XVI*, 417.

[*Latin ed. p. 302*]

302 COMMENTARY. He proceeds to enumerate the Popes who, recognizing that this most formidable enemy, emerging from the darkness of a secret conspiracy, was who he was and what he intended, quickly warned the princes and peoples, as if by a signal, not to allow themselves to be captured by the arts and snares prepared to deceive them. Indeed, when the constitution and nature of the Masonic sect had been ascertained by manifest evidence, by the knowledge of its causes, by the laws, rites, and commentaries brought to light, and often by the testimonies of those who were aware of them, the Apostolic See openly denounced the Masonic sect, declaring it to be founded against both divine and natural law, and equally pernicious to the Christian religion and to the state; and, with the penalties with which the Church is accustomed to severely punish the wicked, it forbade and commanded that no one give that name to the society. The complaints of the Roman Pontiffs were either denied or calumniated by the Masons; but the events that followed clearly demonstrated the truth and justice with which the Roman Prelates had spoken: for these men, the princes themselves, were compelled by the most serious laws, in many kingdoms, to punish them; but not all, nor with that firmness and constancy with which they ought to have done so; and from this, the Masonic sect hastened to grow, so that it might inspire fear both to ecclesiastical and civil authority. Therefore, although Pope Leo XIII has not once raised his voice against the machinations of such a sect, he is compelled to raise it again, so that he may provide a remedy for the evils which it has produced in every way. This sect is hidden in secrecy, and it is bound by obedience to those who give it its name; and if those who are members do not obey, or if they reveal anything, they are often subjected to punishment for their guilt. But, the Pope exclaims, to simulate and to wish to remain hidden, to bind men as slaves, with the most tenacious bonds, and without a sufficiently

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declared cause; to subject others to one's own will for every deed; to arm the same hands with the pursuit of impunity for sin, is a kind of immunity that nature itself does not allow. These things, indeed, are what the Masons do, in order to utterly destroy all that which has been brought forth by Christian institutions, the discipline of religion and of the state, and to build a new order according to their own design, with Naturalism as its foundation and laws.

[*Latin ed. p. 303*]

COMMENTARY 305. For the Masons teach that human nature and human reason are the masters and principles of all things. Therefore, they deny that anything is given by God as its author, and they do not prove any dogma of religion, nor anything certain that human intelligence cannot comprehend; they acknowledge no master to whom, because of the authority of his office, one ought to believe. For this reason, they most vehemently attack the Catholic Church, which they consider the supreme teacher and defender of truth; and they lament that unjust laws are to be restored through it, and that all evils by which the Church is oppressed from every side. But even those things which are taught to Masons by the light of natural reason are uncertain to them, namely, that God exists, that the souls of men are separated from all material existence, and that they are immortal. They scorn the redemption of the human race, heavenly grace, the Sacraments, and the attainment of happiness in heaven. They deny that the parent of the human race has sinned; therefore, they believe that free will is not weakened or inclined by any power. In short: the Masons deny all the mysteries and principal truths of the Christian religion. And with no less impiety, they behave towards the domestic institution, when they say that marriage pertains to the genus of contracts, and that it can be dissolved according to the will of those who contracted it, and that the power to dissolve the marital bond belongs to the civil magistrate, etc. They assert that all men are equal, and that each is by nature free, and that no one has the right to command another, and that it is harmful to want men to obey the authority of anyone, etc. From these things, it clearly follows that the Masons strive with all their might to corrupt both the religious and the civil order. For this reason, it is certain that they believe, or wish to be believed, that the Christian doctrine is not conducive to the Republic, because they do not want the Republic to be strengthened by virtues, but are corrupted by vices (a). And these things have indeed been truly said and warned by Leo XIII. But would that the faithful would not reject the voice of the Supreme Pastor, the voice of Christ! (a) Ep. 157, al. 3, ad Volusiatium cap. V, n 20.

[*Latin ed. p. 304*]

504 COMMENTARY: Therefore, there is no reason to doubt that the

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Masonic sect is most pernicious to both the Church and civil society, and that Pope Leo XIII rightly and justly condemned the books that deny this. However, in order for these books to be subject to condemnation, those who condemn them must demonstrate that Masonic sects and societies of the same kind are harmful to both the ecclesiastical and civil order, and not useful to either. For this reason, other sects are not subject to the same censure, namely those that are religious, such as the Eastern sects, the Protestant sects, etc.; but neither are those that, although they do not have a religious character, do not pursue the same ends as the Masonic sects, nor do they plot against the Church and civil authorities; for the legislator calls them by that name, as he does with other societies of the same kind. Furthermore, Pope Pius IX presented this test for recognizing these sects: that they plot, openly or secretly, against the Church or legitimate authorities (a). Therefore, if a sect is abhorrent in its constitution and purpose, it is not Masonic; it is not bound by an oath or initiation rite, nor does it hold its meetings openly or secretly. This is also evident from the Instruction of the Holy Office to all the Bishops of the Catholic world, dated May 10, 1884, in which paragraph 3 states: "It is certain that, when judging which of these pernicious sects are subject to censure and which are only subject to prohibition, those Masonic and other sects that are designated in Chapter II, paragraph 4 of the Apostolic Constitution *Hae Sedis*, whether they have acted openly or secretly, or have carried out or not carried out the obligations of secret keeping, shall be subject to excommunication. 4. In addition to these, there are other sects that are prohibited and, under the penalty of grave guilt, must be avoided, among which are especially to be mentioned all those that demand an oath of secrecy from their members and require absolute obedience to hidden leaders (b)." Hence, societies of thieves, societies driven by a desire for hidden vengeance and murder (in Italian, *degli accoltellatori*), and societies addicted to burning corpses are included. (c) See Apostolic Constitution *Hae Sedis*, Title 2, paragraph 4. (b) *Acta S. Sedis*, Volume 17, page 44. (c) This is also evident from the decree of the Holy Office of May 19, 1886. Questioned...

[*Latin ed. p. 305*]

COMMENTARY 305: Those who are not numbered among the [religious] orders, nor are other societies, most of which are now arising. On the contrary, the Fenian sect is included under the law, by decree of the Holy Office of January 12, 1870 (a). The Carbonari, the Maxinians, the Internationalists, the Nihilists, the Anarchists; although these latter have not yet been explicitly condemned by law, nevertheless, there is no doubt that they are branches and offspring of the Masonic sect, and that they plot against the Church and legitimate authorities; to those who doubt or deny, the facts are presented. But what about the Socialists? Are they included under Leo's law? Indeed, there are those who believe that this should be

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the case (b); others write that they do not wish to place Socialism among the Masonic sects, and that the judgment of the Church should be awaited (c). Which should we follow? The opinion of the Monitor seems truer to us; and we submit the following arguments to the judgment of the readers. 1. From the aforementioned Instruction of the Holy Office, it is certain that those societies that plot against the Church and legitimate authorities are included under the Plan [of Action], and consequently also under Leo XIII's paragraph. But it is certain and proven that Socialists oppose both the Church and civil authority in such a way that they would overthrow both if they could, and the facts that are now occurring demonstrate this most clearly. 2. Leo XIII, in the Constitution *Quod apostolici muneris*, on that very day, the Supreme Inquisition answered to the question: "Is it permissible to give a name to societies whose purpose is to promote the practice of burning human corpses?" It answered: "No, and if it is about societies that are offspring of the Masonic sect, the penalties prescribed against this [practice] will apply." Therefore, societies addicted to burning corpses are not to be considered as Masonic. (a) *Acta S. Sedis*, Vol. V, 369. (b) *Monitor Ecclesiasticus*, Vol. X, part 1, page 40, where Socialism is called a sect akin to the Masonic sects. (c) Arthur Vermersch, *De prohibitione et censura librorum Brevis Dissertatio*, pages 35 and following, Tours, 1897. "Therefore," he writes, "I do not wish to absolutely place 'Socialism' among such sects. Let us rather follow the prudence of the Holy See, which 'regarding many societies in which workers are organized in the United States and which seem very close to the Masonic sects, so that sometimes they impose civil funerals on their members, it is difficult to define them. Therefore, let us have the societies of the Socialists (except for the particular case of some group) held in the highest regard, and for those about which it cannot be certainly determined whether they belong to the genus of the Masonic sects." (d) Found in Vol. XI of the *Acta S. Sedis*, page 369. *Acta*, Vol. XXX, part CCCLIII, 20.

[*Latin ed. p. 306*]

506 COMMENTARY. On December 28, 1878, it is clearly stated that Socialists, Nihilists, and Communists constitute a single sect, and are bound together by the closest of ties. "Understand that we are speaking of that sect of men, who, under diverse and almost barbaric names, are called Socialists, Communists, and Nihilists, who are spread throughout the entire world, and are bound together by an unjust and most close bond, etc." However, no one will deny that Communists and Nihilists are condemned under the pontificate of Leo XIII; therefore, even Socialists are also condemned, since they constitute a single sect with them, and are bound together by the closest of ties.

3. The Pope affirms that the doctrine of the Socialists originated from the Masonic sects, and that the Roman Pontiffs, just as they have condemned

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the Masonic sects, have also condemned Socialism, which sprang forth from them. After reviewing the Constitutions of Clement XII, Benedict XIV, Pius VI, Pius VII, and Leo XIII, he adds: "Indeed, it is manifest to all with what grave words and with what firmness and constancy our glorious predecessor, Pope Pius IX, in his allocutions or in his encyclical letters addressed to the Bishops of the entire world, fought against the unjust machinations of the sects, and specifically against the pestilence of Socialism, which was already erupting."

4. Socialism is called a sect, and the Bishops are urged to use their wisdom to ensure that the faithful of Christ do not give it a name, nor dare to favor this abominable sect in any way. "You must strive that the children of the Catholic Church neither give it a name, nor dare to favor this abominable sect in any way." Since the Roman Pontiff calls it a sect, and proclaims that Socialism originates from the Masonic sects, it is safe to affirm that it can be considered a sect rather than a political faction.

5. Finally, throughout the entire Constitution that he has written, the Pope demonstrates, with invincible arguments, that Socialists bring harm to both the Church and civil authority. Although, therefore, no decree has yet been issued by the Roman Congregations by which Socialists are numbered among the Masonic sects, yet, since we have the open opinions of the Roman Pontiffs on this matter, there is quite enough to conclude that books which contend that Socialism is beneficial and not harmful to the Church and to civil society, are condemned under the present paragraph. The Most Holy Office, unless we are mistaken in our opinion, refrained from numbering the Socialists among the Masonic sects,

[*Latin ed. p. 307*]

COMMENTARY 507: Since Pope Leo XIII had declared this with his supreme judgment, it was unnecessary to promulgate a new decree on the same matter.

III. But in Section 3, the Legislator condemns those books which defend errors condemned by the Apostolic See. In the Apostolic Constitution *Apostolicae Sedis*, Title II, paragraph 1, Pope Pius IX condemns those who teach or defend, publicly or privately, propositions condemned by the Apostolic See, under the penalty of excommunication *latae sententiae*. Therefore, if any propositions were not condemned under the penalty of excommunication *latae sententiae*, those who taught or defended them were immune from ecclesiastical censure. In the present paragraph, we are not speaking of censures incurred, but of the prohibition of books which defend errors condemned by the Apostolic See. However, if among these errors, there are those which had been condemned under excommunication *latae sententiae* by Pope Pius IX, then those who defend them incur that penalty.

What, then, about the errors condemned by Pope Pius IX in the *Syl-

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labus*? It must first be noted that for those who consider the *Syllabus* to be a constitution, or a document pronounced *ex cathedra*, and who, as such, are intended by the Pope to be believed by all the faithful, defending any of the errors contained therein is plainly heretical, in the sense that they deny that the *Syllabus* is a document of faith, or pronounced *ex cathedra*, or that the individual propositions contained therein pertain to the deposit of faith, or that they should be considered as condemned with the proper qualifications; therefore, such individuals incur excommunication, reserved to the Roman Pontiff in a special manner, according to Title 1, Chapter 2 of the Constitution *Apostolicae Sedis*.

However, since not all will agree that the *Syllabus* is a document pronounced *ex cathedra* (and, to humbly offer our opinion, this thesis has always seemed to us to be of very difficult proof, and it appears to us to be so), the following answer must be given to the question posed.

{a) Those who wish to know the origin of the tenets of Socialism should consult Bergier's *Dizionario di Teologia* - Vol. V, "Socialisti"; however, that article was added by M. Gousset. One should also consult the Constitutions promulgated by Pope Leo XIII against the Socialists, the Masonic sect, and on other matters.

{b) Among the arguments that could be put forward, one is this: The Encyclical *Quanta cura* was published and sent to the Bishops on the same day as the *Syllabus*, as appears from the letter of Cardinal Antonelli dated December 8, 1864, and from the consignation in the Encyclical.

[*Latin ed. p. 308*]

308 - COMMENTARY: Those who defend errors condemned in the Syllabus do not incur excommunication, to the extent that the Syllabus is, or contains, a list of principal errors noted in consistorial allocutions, in Encyclicals, and other Apostolic letters of the Most Holy Pope Pius IX, since no sanction or penalty has been imposed by Pope Pius IX. However, since many of the propositions noted in the Syllabus are plainly impious and heretical, and are found to be condemned in other documents on the faith; and as an example, the errors listed in the first paragraph of the Syllabus; therefore, whoever defends any of these errors is plainly a heretic, not because they are contained in the Syllabus, but because in other definitions of the faith they are condemned as heretical. The other errors noted in the Syllabus are to be understood as being noted in Encyclicals, allocutions, and other Apostolic letters. However, the question arises: must errors that are presented as condemned by the Apostolic See be directly condemned by that See, or is it sufficient that they have been condemned by the Supreme Congregation of the Holy Office, so that they are considered condemned in the name of the Apostolic See? And it is to be considered that the latter is true, provided that the condemnation is subsequently confirmed by the Roman Pontiff. It is customary for the Roman Pontiffs, through the Congre-

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gation of the Holy Office, of which they perpetually hold the prefecture, to resolve questions pertaining to the doctrine of the faith and morals, and to strengthen the judgments issued by that Congregation with Apostolic authority. Thus, we read of Pope Leo X concerning the pronouncements of Martin Luther. But in this case, there is no mention of the Syllabus, nor is there any indication of it. In the letters of Pius IX, in which he declared to the Bishops of the Catholic Church that the Syllabus is a document on the faith, or as in the Encyclical *Quanta cura*, in which he wrote: "Therefore, we, with our Apostolic authority, reject, condemn, and prohibit all and each of the erroneous opinions and doctrines individually mentioned in these Letters; and we will and command that they be entirely regarded, rejected, and condemned by all the children of the Catholic Church:" these, I say, letters were never issued. Therefore, from this, it is clear that the will of the Pontiff to declare the Syllabus to be a document on the faith is lacking. And without the explicit and declared will of the Roman Pontiff, can any document be considered to be on the faith? It is overlooked that there are many, indeed, in the Catholic Church, who use the Syllabus as a document *ex cathedra* to refute the faith, and this is known to the Roman Pontiff and the Congregation of the Holy Office. But ignorance cannot be an excuse. Therefore, what then? Will they be heretics? Schismatics? Or something else? And why has the Apostolic See never corrected them; indeed, why has it allowed them to persist in this great error?

[*Latin ed. p. 309*]

COMMENTARY 309: The positions which were condemned in the Constitution *Euerge Domine*, promulgated on June 15, 1520, by Pope Clement VIII, by Pope Alexander VII, by Pope Innocent XI, concerning the doctrine of Michael de Molinos; and by Pope Alexander VIII, by Pope Clement XI, and by other Roman Pontiffs. However, the errors condemned by the aforementioned Pontiffs, through the Congregation of the Holy Office, were publicly declared as proscribed by the Apostolic See; therefore, the proscriptions of errors made by the Supreme Inquisition and confirmed by the Roman Pontiff are considered to be those made by the Apostolic See. Finally, in order for these books to be subject to proscription, one must not simply assert the errors proscribed by the Apostolic See, but must defend them, that is, demonstrate that the Apostolic See has erred in that or another matter, and that the judgment concerning them is false. However, it must be understood that this applies to errors which pertain to the doctrine of faith and morals, and not to those propositions which pertain to history, criticism, the examination of documents, or to purely natural sciences, provided that they do not have a strict connection with revealed doctrines. For these are judged by other criteria and principles, concerning which the Apostolic See is not concerned, nor do such sciences possess the prerogative of infallibility, nor were they instituted by divine teaching.

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53. It must be noted that in paragraph XV, we are dealing with images of any kind, whether produced by printing, or by incision, or by photography, lithography, phototypy, or other inventions of the arts, with which our age abounds. Paintings and sculptures are not to be considered as included in the present provision of the law; 1. Indeed, because the legislator speaks of printed images, while paintings and sculptures are not impressions; and since we are dealing with an odious law, the words must be taken in the strictest sense. Nor can any difficulty be raised from the adverb "in any way"; for this refers to impressions, and since there are many of them, they are all included by that adverb. 2. Because of what is prescribed in the second part of the paragraph: "unless they have attached prayers, etc.," it is nevertheless certain that in this part the legislator is speaking of printed images; for they can have attached prayers, but it is certain that this provision of the law refers to the preceding one.

[*Latin ed. p. 310*]

510 COMMENTARY: The word "ferri" indicates that the passage refers to images that are *printed*, not painted or sculpted; therefore, the discussion in the preceding paragraph also pertains to *printed* images, not painted or sculpted ones, and to these latter, prayers are not attached. 3. The Legislator prohibits the publication of *new* images, and even more so, prohibits the publication of *printed* images, if they are contrary to the decrees of the Church; whereas paintings and sculptures are not published, but are displayed. 4. Finally, it seems that the Legislator intended to prevent the rapid dissemination of *printed* images that are contrary to the understanding and decrees of the Church, a dissemination that is now easily achieved through new inventions; this cannot be said of paintings and sculptures. But what about coins, commonly called medals? These should not be considered to be included under this law; firstly, because they come under a different name, and not under the name of *printed* images; secondly, because the prayers, of which the legislator speaks, do not seem to be those brief inscriptions that are sometimes engraved on sacred coins; and thirdly, because coins are not *printed*. In any case, this law is very doubtful in its scope, and it does not clearly reveal the will of the Legislator; and in cases of doubt, the law that is to be followed is that which limits its scope. Furthermore, Leo XIII distinguishes between *printed* images that are contrary to the understanding and decrees of the Church, and *printed* images that are permitted to be printed, prohibiting the latter without the proper permission of ecclesiastical authority. Therefore, *printed* images can be either old or very recent; indeed, the series of such images extends up to the day of the promulgation of the Constitution *Officiorum et munerum*; for if, on that day, any images had been created that were contrary to the understanding and decrees of the Church, they would certainly have been *printed*. Therefore, all *printed* images that

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precede the promulgation of this Constitution should be considered and understood to be those that are absolutely prohibited, because they are clearly contrary to the understanding and decrees of the Church: They are absolutely forbidden. Therefore, they cannot be adopted for public or *private* use (a). (a) Since *printed* images that precede this Constitution can be old, and even very old, and whether they conform or do not conform to the decrees of the Church, it is necessary to define them in some way. Therefore, these old images are those whose type has already been completed, and which have been either tacitly or expressly approved, or disapproved, by the Church; while new images are those that have been created with new types or linear designs, commonly called drawings; and sometimes they correspond to types approved by the Church, and sometimes they do not.

[*Latin ed. p. 311*]

COMMENTARY 511. Next follows the second part of the paragraph, in which the matter discussed concerns *novae* images. The legislator decrees that only images conforming to the decrees of the Church are permitted; indeed, he had previously prohibited all images that did not conform in the first part of the paragraph; therefore, it is impossible that in the second part, competent authorities should have prescribed *novae* images that do not conform, since in this case, it would be necessary to suppose that the legislator had subjected his own will and decree to the will of others. Furthermore, the legislator does not prohibit *novae* images by his decree, but only wishes that they not be published without the permission of ecclesiastical authority; but he would certainly have prohibited these as well, if images not conforming to the decrees of the Church were also included in the second part of the paragraph; and this would be consistent; since images that are not in accordance with the decrees of the Church are like other images that he has absolutely prohibited. Therefore, they should be prohibited by the same decree and penalty. However, *novae* images, prayers, and the like, which are not to be published without the permission of ecclesiastical authority, although they are in conformity with the decrees of the Church. What then, if they are published? We believe it is more likely that they are not prohibited.

1. Because such images, being in conformity with the decrees of the Church, do no harm to souls; moreover, the legislator's purpose is to remove from the hands of the faithful images that cause spiritual harm to them.

2. Because in the preceding part of the paragraph, the legislator introduces an absolute prohibition for images that do not conform; but if he also intended to impose this prohibition on *novae* images, he should have placed it at the end of the paragraph, or at least repeated it, so that no doubt would arise.

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3. The sanction of each part of the paragraph is different: in the first, an absolute prohibition for printed images that do not conform; in the second, a prohibition against publishing them without legitimate permission; but one is not equivalent to the other.

4. Finally, the prohibition for images that conform can only be conceived because they are presumed to be published without legitimate authority; therefore, it should have been indicated, as it is indicated in paragraphs, for example, 13 and 20. For this reason, we must consider that the legislator intended what he expressed, and did not intend what he did not express.

It will be fitting to inquire, after these things, what images, whether not conforming to the decrees of the Church, or conforming to them, should be kept. And we believe that this matter should be decided by the authority of the Fathers of the Council.

[*Latin ed. p. 312*]

512 COMMENTARY concerning the decrees of the Popes of Rome, especially Urban VIII and Benedict XIV. Therefore, the Fathers of the Council of Trent, in Session X, paragraph XXV, concerning the Invocation, Veneration, and Relics of the Saints, and Sacred Images, especially decreed two things: namely, that images should not be presented to the faithful for veneration if they express any false dogma, or if they are depicted in such a way as to incite lust rather than devotion. No images expressing false dogma, and which offer an occasion for dangerous error, shall be erected; and such diligence and care should be employed by Bishops in these matters, that nothing disorderly, or indecent, or tumultuous, nothing profane, and nothing unseemly, should appear, for the house of God demands sanctity. Therefore, sacred images must conform both to the sacred dogmas of the Church, and to the laws of modesty. Hence, the Holy Synod decrees that every abuse be removed; and to achieve this, it establishes that no unusual image shall be placed in any church, unless with the permission of the Bishop. Furthermore, the Holy Synod earnestly desires that any abuses that may have crept in concerning sacred images be completely abolished. The Holy Synod decrees that no one, in any place, or in any church, even if it is exempt in any way, shall place or cause to be placed any unusual image, unless it has been approved by the Bishop. He who gave accurate rules for painting or printing sacred images was Benedict XIV, first in his distinguished work *De Beatif. et Canoniz. Servorum Dei*, especially Book IV, and then in the Constitution *Sollicitudini* promulgated on October 1, 1745. Since, in this Constitution, which he had written in detail and extensively, at least concerning some matters, we shall here reproduce almost in his own words what that Pope established. Therefore, concerning the representation of the Most Holy Trinity, § 3, paragraph 2, he writes: "Therefore, the images of the Most Holy Trinity which are commonly approved and safely permitted are those which either depict the person of God the Father in the form of an

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elderly man, taken from Daniel, Chapter VII, verse 9: 'I saw in the visions of my head, that I received understanding of the visions; and in me was revealed the vision of the night.' In whose bosom is seen the Only Begotten Son of Himself, namely Christ, who is God and man, and between them is represented the Paraclete, the Holy Spirit, in the form of a dove, or two figures with a slight interval between them, one of an elderly man, namely the Father, the other of Christ, in the middle..."

[*Latin ed. p. 313*]

COMMENTARY 515: "However, among these, the Holy Spirit, represented in the form of a dove, is considered the most fitting." He disapproves of those who, as mentioned in § 26, along with the most learned Bellarmine, condemn the artists who dare to invent images of the Trinity from their own minds; for when they paint a single man with two heads, and in the middle of them, a dove, these images appear to be monstrous, and offend more by their deformity than by any semblance of truth. He strongly disapproves in § 27 of representing the Virgin Mary as bearing the Trinity in her womb, as if the entire Trinity had taken on human flesh from the Virgin. From paragraph 29 to 36, he inquires what should be thought about an image depicting the Holy Trinity in three persons, all of equal stature, age, and every other feature. However, after presenting the arguments of Doctors, both for and against, he refrains from pronouncing a judgment, and leaves the question unresolved. § 36 explains how each person of the Trinity should be depicted, and states: "The Father is depicted separately from the other persons, because He heard the voice of the Lord God walking in the Garden of Eden. Genesis, Chapter III; He was seen by Jacob leaning upon the mystical ladder. Genesis XXVIII, 13; and also by Moses in a miraculous manner. Exodus XXXIII, 23; and also by Isaiah, as a King seated on His throne, Isaiah VI, 1; and by Daniel, as an old man clothed in a white garment. Daniel VII, 9. "The eternal Son is also depicted separately from the Father and the Holy Spirit, because He became man, and during the days of His flesh, He conversed with men, and even after He rose from the dead, He appeared repeatedly to the Apostles and others. He is represented affixed to the Cross, upon which He bore our sins. This image of the Crucifix was considered by the impious Luther to be able to be removed from the midst [of churches]; and Elizabeth, Queen of England, daughter of Henry VIII and Anne Boleyn, although she declared war on sacred images, nevertheless wished to retain one in her private oratory. He is also accustomed to be depicted in the form of a Lamb, and this image is supported by the prophecy of Isaiah, the testimony of John the Baptist, the words of the Evangelists, the Apocalypse of the Apostle John, and the First Epistle of St. Peter, etc. "The Holy Spirit is also depicted, either as descending from heaven on the day of Pentecost in the form of tongues of fire, or otherwise in the form of a dove, separately, just like the other divine

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persons.

[*Latin ed. p. 314*]

314 COMMENTARY: "Because these apparitions occurred under these figures, of which Scripture makes mention; nowhere is the Third Person found apart from the communion of the others." It is not permissible to depict the Holy Spirit under the form of a young man, and this teaches and commands that such images be prohibited and removed, as stated in paragraphs 8 and 10, where it says: "Concerning certain publicly displayed and widely disseminated images depicting the Holy Spirit under the form of a handsome young man, with the following words: 'Come, Holy Spirit,' we urge you, and even by the authority with which we are endowed, we command you, that in no way should such icons be further multiplied; and whatever you may find existing anywhere, you must remove them all and individually; using those remedies of your authority and prudence, by which you judge it possible to achieve the desired end without disturbance or tumult." Regarding other images of the Blessed Virgin Mary, the Saints, the Blessed, and the Servants of God, Urban VIII, in the year 1642, generally decreed that they should be depicted under that habit and form which has been in use in the Catholic Church from ancient times: "Images of our Lord Jesus Christ, and the Virgin Mary of Cattolica, the Apostles, the Evangelists, and other Saints and Saintesses, it is forbidden, by these present terms, to sculpt or paint, or to have sculpted or painted, or to depict in any other way, or to expose to public view, or to dress with any habit or form other than that which has been customary in the Catholic and Apostolic Church from ancient times, or even with the particular habit of any Regular Order." Furthermore, we command that images painted or sculpted otherwise be removed and destroyed from churches and other places, or be reduced and reformed to the habit and form customary in the Catholic and Apostolic Church from ancient times, etc." Ap. Benedict XIV. Concerning the Beatification and Canonization of the Servants of God, Book IV, Part II, Chapter XXI, n. 6. The most ancient custom is to depict the Blessed Virgin Mary with garments of blue and red. Benedict XIV approves what Sarnelli writes in his ecclesiastical letters, Volume IV, Epistle 46, namely: "From the apostolic age, the Blessed Virgin Mary has been sculpted and painted with garments of the color of rose or purple, and with a pallium (in Italian, *manto*) of the color blue (*azzurro, turchino, celeste*);" which Sarnelli demonstrates.

[*Latin ed. p. 315*]

COMMENTARY 315 is drawn from images which are said to have been depicted by St. Luke, and which he affirms to exist in Rome, both in the Basilica of St. Mary Major, and in the Church of St. Mary in Via Lata. However, we do not know whether this argument is sound. How the Angels are to be painted is explained by Conradus Brunus in his *Book of Images*,

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chapter VI. "Indeed," he says, "the images of celestial spirits which were once seen by men, the Holy Mother Church has always been accustomed to depict, not rashly, nor with something new, or recently invented by men, but with the most ancient, and with that simple and manifold wisdom of God, transmitted through the Holy Spirit, by example. This is demonstrated by the countless examples of images of holy angels throughout the entire Christian world; for the angels are depicted in human form, as that which is most perceptible to all men, as young men, with a shining appearance, clothed in white garments, barefoot, girdled around the chest and waist, adorned with precious stones, and winged with two feathers, surrounded by clouds, as instruments of God, or of wrath, such as a sword; or of mercy, such as a cross, and other symbols of the Lord's Passion, held in their hands, presented to the view of men." The images of canonized saints are to be painted with a diadem, as is stated by Benedict XIV in *Op. cit.*, part II, chapter X, number 6, in which place he approves the opinion of the most learned man, Father Cepari of the Society of Jesus, who left the following written: "Only canonized saints are to be painted with a diadem. However, the blessed who have been approved by the Apostolic See, and for whom Mass or the Office may be recited, or who have received the title of Blessed, ought to be depicted with only rays, or beams of light." Finally, the images of the Servants of God who are not yet beatified or canonized are not to be painted with rays, laurel wreaths, or a diadem, nor with a person kneeling before them, because that would imply worship, as is stated in *Op. cit.*, Book II, chapter XI, number 5, with the decrees of Urban VIII cited, which were issued on July 5, 1634. "The images of these Servants of God cannot be painted with laurel wreaths, rays, or beams of light, nor can they be kept, whether in shrines, or in niches, in public or private places, or in churches, whether secular or regular, of any Order, Institute, or Society." Finally, it must be considered: whether, in the name of the decrees of the Church, in which are found diverse sacred images, one should understand...

[*Latin ed. p. 316*]

316. COMMENTARY: Also, those decrees which are read as part of the Index of Prohibited Books, and which are not specifically mentioned in the Index, § III, should be considered; and we believe that a negative answer should be given, since all the decrees found preceding the Index of Prohibited Books have been abrogated by Pope Leo XIII, and it has been established that the rules prescribed by him have the force of law. Therefore, conformity or non-conformity with sacred images should not be determined from these decrees, but from the decrees of Pope Urban VIII, and of other Roman Pontiffs, and of the Sacred Congregation of Rites. The decrees preceding the Index, when considered again, have been abrogated; and they can no longer have the force of law.

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54. Indulgence is the remission of the temporal punishment due for sins, concerning which the guilt has already been remitted, granted outside of the Sacrament by one who has the power to do so, through the application of the Church's treasure. From this broad definition, it is clear that apocryphal indulgences are those which have not been granted by legitimate authority, but have been introduced and published by others. Proscribed are those which have been condemned by legitimate authority, for whatever reason, whether because they have ceased to be valid, or because abuses have been committed in their preaching or granting. Revoked are those which have been annulled by one who has the power to do so, and to which all value has been removed, so that the faithful of Christ can no longer profit from them, since they are to be considered as non-existent after the revocation. Furthermore, many apocryphal and false indulgences have been spread among the people, which were especially proscribed by the Most Holy Pope Innocent XI, by a broad decree on March 7, 1678, which begins: "They have been frequently offered..." Other indulgences, which at one time were legitimate, were revoked by the Roman Pontiffs Pius V and Paul V. Whoever wishes to know more about these should read Ferraris, *Bibliotheca canonica*, v. Indulgentia, art. IV.

However, the number of indulgences, even those legitimately granted, was very great; and because of their multitude, and the various conditions concerning both the works prescribed and the duration of time, there arose a considerable doubt about their value. For this reason, Pope Pius IX ordered the publication of a Collection of prayers and pious works to which indulgences were attached; and he decreed that only these should have validity. "The Supreme Pontiff has graciously approved, that all and each of the prayers and pious works, which up to the present day have been attached to indulgences..."

[*Latin ed. p. 317*]

COMMENTARY 317: "A collection, or syllabus, has been increased, which was most diligently prepared by the Secretary of the aforementioned Sacred Congregation, and then published. Therefore, according to the mandate of his Holiness, this collection, having been completed properly and accurately, and published by the printing press of the Sacred Congregation for Indulgences, was approved by the Most Holy Pope Pius IX with his apostolic authority; and he commanded that all the Christian faithful should consider this collection of indulgences, granted up to this point, to be entirely genuine and authentic" (a). Furthermore, there are authentic collections of decrees, issued by the Sacred Congregation for Indulgences, which provide certain assurance regarding the truth of indulgences. However, when, near the time that new indulgences are granted by the Sacred Congregation for Indulgences, and the collectors of decrees publish them, since there are so many decrees that they reach

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a just volume, they cannot provide a rule for distinguishing the new and most recent indulgences. Therefore, it is safer for bishops to refer to the acts of the Holy See, whose volumes are published with each month, and in which are recorded all the decrees of the Roman Congregations, which have been issued either in that month or the preceding month, so that they may obtain all certainty regarding the truth of indulgences; or, if that is not possible, to refer directly to the Sacred Congregation for Indulgences. The legislator commands that these apocryphal, proscribed, and revoked indulgences, if any have been disseminated, should be removed from the hands of the Christian faithful. This duty, however, pertains to bishops and other pastors of souls; the faithful, as Vermeersch rightly observes (b), have no other obligation than to obey faithfully the orders of the bishops or superiors, if any precepts are brought forth by them, whether orally or through promulgated edicts. The command of the superior ends with the subordinates; if he commands, they are obligated to obey; but since no penalty has been established by law for those who disobey, it follows that the subordinates who disobey are not subject to any penalty. The distinction between the ancient and the new law concerning apocryphal, proscribed, and revoked indulgences is that this general decree precedes all the collections of prayers and pious works through which the Most Holy Popes have granted the Holy Indulgences. Rome, 1877. (b) Commentary, on this passage, page 46.

[*Latin ed. p. 318*]

318 It is essential that this be understood so that nothing is omitted; it refers only to particular Indulgences, which are granted to certain crowns, crosses, religious orders, confraternities, colleges, etc.; those who wish to know more should read the Index of Prohibited Books, Decrees concerning prohibited books, and those not expressly named in the Index, § III, n. 9. 55. In this paragraph 17, the discussion concerns true and legitimate Indulgences, the granting of which should not be made public without the permission of competent authority; we speak of true Indulgences, because false and apocryphal ones have never been granted, and it is contrary to reason that they should be; for if they are granted by legitimate authority, they are neither false nor apocryphal. By "books of Indulgences" are understood collections of various Indulgences compiled and published in a volume. Summaries are certain compendiums in which various Indulgences are indicated, and the decrees concerning their granting are cited, or briefly referred to, without being quoted verbatim. "Leaflets" are small books in which granted Indulgences, usually a few, are presented, sometimes with the accompanying decrees, and are recommended to the faithful. "Foliants" consist of two or more pages, depending on the size of the edition, whether in folio, in 4°, in 8°, in 16°, or in 24°, in which a particular Indulgence is presented and recommended to the piety of the faithful. But whatever

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the form of publication, nothing concerning Indulgences can be made public without the permission of competent authority. And immediately, two questions must be resolved; the first of which asks: What is this competent authority from which permission must be obtained to publish Indulgences? 2. Do books of Indulgences, even legitimate ones, summaries, etc., remain prohibited if they have been published without the permission of competent authority? Regarding the first question, it should be known that, after the publication of the Constitutions of the Offices and Duties, the following doubt was presented to the Holy Congregation of the Index: "Whether in the Decree 'n. 17 of the General Decrees concerning prohibition and censure of books recently published by the Most Holy Pope Leo XIII, the words: 'they should not be published without the permission of competent authority,' are to be understood in such a way that, in the future: books of Indulgences, leaflets,

[*Latin ed. p. 319*]

COMMENTARY 319: "Concerning the matter of whether all publications, etc., should be submitted solely to the Ordinary of the place for obtaining permission to print; or whether they should be subjected to the scrutiny of the Holy Congregation of Indulgences, or of the Ordinary of the place, according to the norms established before the new Constitution concerning Offices and Duties."

The same Holy Congregation of Indulgences responded:

"To the first question, negatively.

To the second question, affirmatively."

"Given in Rome, from the Secretariat of the same Holy Congregation of Indulgences, on the 7th of August, in the year 1897."

(Signed) A. Card. (in place of STEINHUBER, Prefect of the Seal) Fr. MARGOLINUS CICOGNANI, O.P., Secretary (a).

From this response, it is clear that the Roman Pontiff, Leo XIII, concerning those who have the power to grant permission for the printing of books, summaries, etc., which contain concessions of indulgences, has not altered the ancient law; therefore, the words used by him designate, without the permission of the competent authority, those same authorities, and not others.

Furthermore, since the Holy Congregation of Indulgences responded affirmatively to the second question; and since the question proposed was: whether all books, summaries, etc., concerning indulgences, should be subjected to the approval of either the Holy Congregation of Indulgences, or of the Bishops, according to the norms established before the new Constitution, it is necessary to inquire what these norms were, in order to resolve the proposed question.

It is therefore known that there has been a varied discipline within the

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Church concerning the publication of indulgences. The Council of Trent, in Session XXI, chapter 9, entrusted the promulgation of these to the Bishops. Furthermore, it decreed that indulgences, and other spiritual graces, by which the faithful should not be deprived, should henceforth be granted by the Ordinaries, with the assistance of two members of the Chapter, after duly proclaiming them to the people.

However, the Fathers of Trent did decree a law concerning indulgences at the end of Session XXV, held on December 4, 1563, in which the following was prescribed: "Concerning others (abuses), which arise from superstition, ignorance, irreverence, or from some other cause..."

[*Latin ed. p. 320*]

"Having considered the matter with due deliberation, and noting that, due to the multitude of places and provinces in which these abuses occur, it is not possible to specifically prohibit them in each location, We command all Bishops that each one diligently collect information regarding such abuses within their own Church, and that they report these to the first provincial synod, so that, after the opinions of other Bishops have been heard, they may be promptly presented to the Supreme Roman Pontiff, to whom the authority and prudence belong to determine what is expedient for the entire Church; in this way, the ministry of the holy Indulgences may be dispensed to all the faithful in a pious, holy, and incorrupt manner. Thus, there is no doubt that, according to the prescriptions of the Fathers of Trent, the publication of Indulgences pertains to the Bishops; indeed, in the final decree, those things which were established in the beginning are neither revoked nor abrogated, but only it is prescribed that the abuses which the Bishops have discovered concerning Indulgences within their respective dioceses should be reported to the provincial synods. However, these provincial synods have not been very effective; for this reason, the decree of Trent has become useless. Moreover, since the diligence and prudence of the Bishops have not been as great as that which the Fathers of Trent, with mature deliberation, had planned and instilled, the Supreme Inquisition, on August 6, 1653, somewhat restricted the powers of the Bishops concerning the publication of Indulgences, ordering that the Bishops should communicate to the Inquisitors, against heretical perversity, the content of the Indulgences to be published: that they should obtain approval of the Indulgences and a license to print them from the Ordinary; but that the same Ordinaries should also be required to communicate the content of the same Indulgences to the Inquisitors, so that they may jointly determine whether they are true or false. However, on July 6, 1669, Pope Clement X, in the early years of his pontificate, established the Holy Congregation of Indulgences, which was endowed with the power to resolve any difficulty or doubt arising concerning holy relics, or Indulgences; and, if any abuses have occurred in these matters, to correct and amend them... to prevent

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false, apocryphal, and spurious Indulgences from being printed, to recognize and examine those that have been printed, and, after reporting them to the Roman Pontiff, to render them null and void with his authority. However, the Holy Congregation of Indulgences, at least from the beginning, did not seem to deviate in any way from..."

[*Latin ed. p. 321*]

COMMENTARY 321. The cited decree had established that Bishops must communicate to the Inquisitors the terms of the publication of Indulgences, and consequently, the decree recognized the power of the Bishops to oversee the publication of Indulgences. This is demonstrated by the Decree of the Holy Congregation of Indulgences, issued on July 24, 1673, which addressed a question that arose between a Bishop and the Inquisitor of Cremona. "A dispute arose between the Bishop of Rome and the Inquisitor of Cremona concerning the printing of Indulgences, when the former stated that whatever pertains to Indulgences belongs to the Episcopal forum, to which the Bishop retains full jurisdiction and judgment according to the edict of the Holy Inquisition; the latter, however, affirmed that it is granted to him by the tenth rule of the Index of prohibited books, so that no book, nor any writing, may be printed without his permission. The question, having been brought before the Sacred Congregation and carefully examined, the same Sacred Congregation judged that it could be resolved by the following distinction: Indulgences which the Bishop grants to his subjects and oversees the printing of, as well as pastoral letters, by which Indulgences granted by the Supreme Pontiffs are announced to the people, and other writings, for the guidance of his people, or promulgated in the name of his office, all of which properly belong to the Episcopal forum, in which matters of penance are prescribed and, through Indulgences, precepts and edicts are remitted, are free from the jurisdiction and authority of the Inquisitor, and may even be printed without his knowledge, but with regard to the others, the Bishop must communicate to the Inquisitor before they are printed." Therefore, in the year 1673, the publication of certain Indulgences, which properly belonged to the Episcopal forum, was exclusively the responsibility of the Bishop; the others, however, he was obliged to communicate to the Inquisitor before they were published: thus, the power of the Bishops concerning such matters in the year 1673 was not curtailed. Pope Benedict XIV, on January 28, 1756, decreed nothing other than that those who obtain general concessions (a) from the Roman Pontiff, must, under penalty of nullity, present a copy of the granted grace to the Secretariat of the same Congregation; this decree we will refer to later. After Benedict XIV (b) came the Decree which is held (a) General Indulgences are those through which the faithful of all places may obtain indulgences. (fr) We infer this from the order in which such decrees are found in the Index of Prohibited

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Books, Volume XXX, page CCCL1V, 21.

[*Latin ed. p. 322*]

322 - COMMENTARY concerning the Decrees regarding prohibited books, and those not specifically mentioned in the Index, § III, n. 13: All books, journals, summaries, pamphlets, and leaflets in which the concessions [of Indulgences] are contained, must not be published without the permission of the Holy Congregation for Indulgences. However, let no one infer that the faculty of approving or denying the publication of Indulgences has been granted to Bishops, since there is no evidence of the revocation of such a faculty, nor is there any argument to prove that the powers attributed to the Holy Congregation for Indulgences are to be understood as depriving [Bishops] of such powers. On the contrary, it is to be considered that, even with the aforementioned decree from the Holy Congregation for Indulgences, the faculty of inquiring into and granting the publication of Indulgences has been retained by Bishops. This is most clearly evident from the Decree which was issued by the Holy Congregation for Indulgences on April 14, 1856. Thus, it is further written in the Acts of the Holy See, Volume III, page 106: "To the Holy Congregation for Indulgences and Sacred Relics, many Indulgences have been printed, which, although entirely false, apocryphal, and indiscreet, are nevertheless, through malice of men, or through negligence and without any authority whatsoever, printed and circulated. Hence, a considerable detriment results, because the faithful are led into error, and the enemies of the Holy Mother Church expose the Indulgences themselves to ridicule. Therefore, the Holy Congregation, in the general assemblies held in the Apostolic Palace at the Vatican on March 31st of the past year, declared several such Indulgences, which were printed, to be apocryphal, null and void, and indiscreet, and it recommended to the Ordinary of each place, through whose diocese such Indulgences are circulated, that the Decrees of the Holy Congregation issued on this matter be observed with all diligence. Since it is entirely incongruous to always pursue all summaries, pamphlets, leaflets, etc., which contain descriptions of indiscreet, false, and apocryphal Indulgences, and to eliminate them with special decrees each time, the Most Holy Pope Pius IX, in an Audience on April 14, 1856, approved the aforementioned opinion of the Most Eminent Fathers with His Apostolic authority; they are placed after the Constitution *Sollicita ac provida* issued by Benedict XIV.

[*Latin ed. p. 323*]

COMMENTARY 525: "By order; desiring moreover that, concerning the invaluable treasure of Indulgences, all things be done piously, holily, and incorruptly, he commanded that all Ordinaries throughout the world be urged by this Decree to diligently strive for the good of the flock of Christ, to

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the extent of their power and what they ought to do, and to ensure that such false and apocryphal Indulgences, as far as possible, are not disseminated, and that they be removed from the hands of the faithful; but also to strive that the decrees issued by the Sacred Congregation for the benefit of the faithful, and especially those concerning the publication and printing of Indulgences, be observed, first and foremost the decree issued on January 19, 1756, and approved by His Holiness Pope Benedict XIV on the 28th of the same month, which reads as follows: "Since experience daily demonstrates that many general grants of Indulgences are issued without the knowledge of the Sacred Congregation itself, from which many abuses and confusions arise, after mature deliberation, it is hereby declared that those who request such general grants henceforth shall be held, under penalty of nullity, to present a copy of such grants to the Secretariat of the same Sacred Congregation."

Furthermore, in order to help the Ordinaries of places to distinguish between false and apocryphal Indulgences and true and genuine ones, the same most holy Pope Benedict XIV taught, wisely and customarily, in his work *On the Diocesan Synod* [a]. And if, moreover, some [a] Benedict XIV, *On the Diocesan Synod*, Book XIII, Chapter XVIII, n. 3, taught this.

"By our predecessors, the Roman Pontiffs, either directly or through the advice of Congregations, so many apocryphal Indulgences have been condemned, that any Bishop can easily determine which Indulgences are not to be permitted for publication in the Diocese; and these, along with the Bulls, Briefs, and Decrees, are found throughout the work *On Indulgences*, which was carefully composed by Father Theodore, Consultor of the Congregation of Indulgences and Sacred Relics. Whenever an Indulgence is encountered about which no mention is made in the aforementioned work, it is easily determined whether it is apocryphal or not; for he who disseminates it and defends its validity must present a written document proving its concession, or at least indicate the place where such a document is kept. Therefore, if an Indulgence is presented to the people, along with the written document of its concession, or with an authentic copy thereof, it immediately becomes clear whether it is apocryphal or not. It is, therefore, to be taken care that: summaries [of Indulgences] are not published unless they have been collated and signed by the Ordinary of the place, or his Vicar; and that credence is not given to transcriptions of Bulls unless they have been collated, signed, and sealed by some Metropolitan, or his Vicar. All Indulgences are to be given to the Bishops..."

[*Latin ed. p. 324*]

524 COMMENTARY: "Regarding matters concerning Indulgences, concerning which doubts arose either regarding their efficacy or their genuineness, [let them] appeal to the Sacred Congregation, so that they may obtain a suitable resolution of the doubts." Given in Rome, from the Secretariat of

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the Holy Congregation for Indulgences, on the 14th of April, 1856. F. Card. ASQUINIUS, Prefect. A. Colombo, Secretary. As everyone perceives, by means of such a decree, the faculty for Bishops to publish Indulgences was not denied, but affirmed; moreover, a duty was imposed upon the Bishops to diligently ensure that the decrees issued regarding such publication, and especially those which Benedict XIV, in the aforementioned place, had established, were observed. Thus, the full faculty remained both to the Bishops and to the Holy Congregation for Indulgences. But dualism frequently causes confusion; and although many decrees on this matter have been promulgated, the Bishops nevertheless remained hesitant regarding how they ought to act in particular cases, indeed, they were hesitant regarding the very understanding and application of the law. Hence, in the year 1858, the Bishop of Petrocore and Spalato, in Gallia, presented suitable questions to the Apostolic See, which, together with the extensive decree, we deem worthy of being included in these Commentaries, since the decree establishes the law regarding the faculties which the Bishops have in the publication of Indulgences, and also confirms the responses which the Holy Congregation for Indulgences gave to the aforementioned questions, and clarifies the proposed question. On the 22nd of January, 1858. Most Blessed Father: "In the decrees concerning prohibited books, which were added after the Regulations of the Index, the following is read... § III, n. 12. 'Indulgences are to be submitted for inspection and examination, and those which are deemed legitimate will be approved, while the rest will be rejected without any authority.' From this testimony, it is most clearly evident that the aforementioned Blessed XIV, at that time, preserved the full faculty for the Bishops regarding the publication of Indulgences."

[*Latin ed. p. 325*]

COMMENTARY 525: "All books, Diaries, Summaries, Pamphlets, Folios, etc., in which 'these concessions are contained, must not be published without the permission of the Sacred Congregation of Indulgences. Since several doubts have arisen concerning the interpretation of this rule, the Bishop of Petrocorensi and Salatensis, in Gaul, humbly submits them to the consideration of Your Holiness:

I. Whether the aforementioned rule is to be understood in such a way that no Summary, Catalog, or Folio of Indulgences can be printed by the Ordinary himself, without special permission from the Sacred Congregation of Indulgences, even when he is certainly aware that these Indulgences are authentic, for example, because he possesses a Catalog or Summary printed in Rome?

II. Whether this printing and publication is only prohibited to the Ordinary when he is not certainly aware that these Indulgences have already been published by the Sacred Congregation of Indulgences?

The two doubts presented by the Bishop of Petrocorensi were discussed

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in the Sacred Congregation of Indulgences and Sacred Relics, which was held at the Vatican Aedis on December 14, 1857. After hearing the opinion of the Consultor of the Sacred Congregation, and after careful consideration, the Most Eminent Fathers voted on both doubts, as follows:

Article 12, § III, of the Decrees following the Indian Rules, is to be understood and applied in such a way that, if the matter concerns the publication of the concession of a particular Indulgence, or a Summary of Indulgences, which is to be taken from an Apostolic Brief or a Decree, or a Summary already published by the authority of the Sacred Congregation, it is within the power of the Ordinary to grant permission for the printing of these concessions (provided that, for the sake of some listing, there is no special and express prohibition); on the contrary, if the matter concerns a Summary, whether previously collected but never approved, or now being compiled for the first time from various concessions, the express permission of the Sacred Congregation of Indulgences is required."

With the words "Facto verbo cum Sanctissimo," and after having made the following statement to the Most Holy Father, the Secretary of the Sacred Congregation, in a faithful report to the Most Holy Pope Pius IX, during an audience on January 22, 1858, the Most Holy Father approved the vote of the Most Eminent Fathers.

[*Latin ed. p. 326*]

326 COMMENTARY: "Granted in Rome, from the Secretariat of the aforementioned Holy Congregation of Indulgences." Cardinal F. ASQUINIUS, Prefect. L. S. A. Colombo, Secretary (a). Therefore, Bishops will be able to grant the faculty to print particular, indeed individual, Indulgences, [namely] those which consist either of an Apostolic Brief or a Rescript, and also Summaries of Indulgences, which, by the authority of the aforementioned Congregation, had already been published, provided that there is no special prohibition for any [case], so that, namely, they are not printed again without a new license from the aforementioned Congregation; never, but rather, Bishops will be able to grant the faculty to print a Summary of Indulgences collected, but not approved by the aforementioned Congregation, or collected from various concessions; for this requires the express faculty of the Holy Congregation presiding over Indulgences and Sacred Relics. Therefore, the competent authority, of which we are speaking in the present paragraph of the Constitution of Leo XIII, is the Bishop for particular Indulgences which consist of an Apostolic Brief or a Rescript, or for Summaries already promulgated by the authority of the Holy Congregation of Indulgences; it is this Holy Congregation for the publication of particular Indulgences which do not consist either of an Apostolic Brief or a Rescript; and for those Summaries which have been published, but without the approval of the aforementioned Congregation, and also for those in which various concessions are inserted, but which

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must first be published. Briefly: In the present law concerning Indulgences, of which the certainty is established by an Apostolic Brief or a Rescript, or of which the publication has been approved by the Holy Congregation of Indulgences, the competent authority is the Bishop; for others which, without the authority of the aforementioned Congregation, have been published, or are still to be published, the competent authority is the Holy Congregation presiding over Indulgences and Sacred Relics (b). (a) Acta S. Sedis, Vol. III, page 102. (b) The Most Illustrious Editors of the Monitore Ecclesiastico, Vol. X, Part I, page 3.

[*Latin ed. p. 327*]

COMMENTARY 327: From what has been discussed thus far, let the readers understand that: 1°. By the authority of approved publications concerning Indulgences, Bishops have never been deprived of their office by the Apostolic See. 2°. Nor can they be deprived of it, except in some case temporarily and as a punishment; for Indulgences are either granted to the faithful or are enriched through sacred prayers, images, and other objects that excite devotion and promote it; these are found in all dioceses, and it is absolutely necessary that Bishops exercise vigilance in this matter, so that false, apocryphal, or exaggerated Indulgences are not promulgated; but those which are necessary for Bishops to properly fulfill their office for the good of their subjects and the Church, they can never be deprived of, nor can the Apostolic See ever permanently deprive them of their office. 3°. Therefore, all the preceding decrees should be understood in a cumulative, not a restrictive, sense; that is, the power to grant the publication of Indulgences belonged both to Bishops and to Inquisitors; later, it belonged to the Sacred Congregation of Indulgences and to Bishops. 4°. Regarding the aforementioned decree, Pope Pius IX was compelled, either through negligence or carelessness, by Bishops who were not sufficiently vigilant concerning the publication of Indulgences; however, he took care not to allow Bishops to publish Indulgences whose publication had not yet been approved by the Sacred Congregation of Indulgences; which is a just and legitimate precaution; for before allowing the publication of Indulgences, Bishops must be certain of their authenticity in every way. The frauds committed, the deceptions of the faithful, and the complaints of Bishops, as well as the derision of the enemies of our most holy Religion, gave cause for that decree. On page 67, they wrote: "In modern law, the authority of a Bishop is sufficient for the publication of Indulgences." This means that previously, the permission of the Sacred Congregation of Indulgences was necessary for the publication of these books; now, the permission of the Bishop is sufficient. But they wrote this before the decree of the Sacred Congregation of Indulgences was published; therefore, given the opportunity, this statement will be retracted! Although, to speak the truth, it was by no means necessary to issue a new decree to define the matter. For

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Pope Leo XIII did not establish any new competent authority, but simply decreed: "Without the license of a competent authority," it was understood that this competent authority was the same as in the old law. And this is even more so because § 19, which deals with the Litanies, which could not previously be published without the authority of the Sacred Congregation of Rites, expressly derogates from the old law, and entrusts their revision and approval to the Bishops alone.

[*Latin ed. p. 328*]

328 COMMENTARY: Regarding the second question, which we proposed to examine: whether books of Indulgences, even legitimate ones, and summaries thereof, should be prohibited if they are published without the proper authorization (which authorization we extend even to other books), we believe the negative answer to be true. For: 1. Leo XIII abrogated the ancient law, and wished to make the remaining sanctions milder, and he also wished that they should have force and authority only through the Constitution issued by him; but in the ancient law, there was no absolute or general decree by which otherwise harmless books were subjected to prohibition if they were published without legitimate authority; therefore, it is much less permissible in the new legislation, which is milder, to admit such a sanction. Nor should the decrees concerning prohibited books, nor those specifically listed in the Index, by which even books of harmless reading are prohibited, be opposed, nor should the decree issued by the Most Holy Pope Urban VIII on September 18, 1625, by which those books were subjected to prohibition which, while residing in the Papal States, or in Rome, were sent to be printed elsewhere without the permission of the Bishop, the Inquisitor, or the Master of the Sacred Palace; the reason for this prohibition applies universally. These should not be opposed to the Prefect; for the cited decrees included in the Index do not constitute an absolute and general decree. (a) "The Most Holy Lord, wishing to correct, for the proper exercise of his pastoral office, certain abuses existing among those subject, either directly or indirectly, to the Apostolic See, who send books composed by themselves to be printed elsewhere, outside of the aforementioned state, without any approval from the Ordinaries and Inquisitors of the place where they reside, decreed that henceforth, no one residing in the aforementioned state, of any condition, rank, order, or dignity, should dare to send or transmit to be printed elsewhere, books treating of any subject, and composed anywhere, without the express written approval of the Most Illustrious and Reverend Lord Cardinal, Prefect of the Sacred Congregation, if he is in Rome, or, if outside Rome, without the authority and permission of the Ordinary and Inquisitor of that place, or those deputed by them." — "And those books which are printed contrary to the provisions of this decree, in addition to other penalties to be imposed at the discretion of His Holiness, are, without

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further declaration, expressly prohibited from this time forward, and are to be considered as expressly prohibited, and are ordered..." The Cardinals who had not yet received the title of Eminence in 1625, received it from the same Urban in 1630, with a decree issued on June 10. Innocent X, in the Constitution Militantis Ecclesiae, issued on December 19, 1644, ordered that the Cardinals should be content with the single title of Eminence, setting aside others.

[*Latin ed. p. 329*]

COMMENTARY 329, but these [rules] are referred to books of a special subject matter, of which many were prohibited for reasons of circumstance. The decree of Urban VIII, however, was issued in a note applicable to certain authors residing in Rome or within the Papal States, and not to all the faithful of Christ, and concerning specific abuses, of which the Pontiff complained. It is false that such a prohibition and sanction can be extended to other regions not subject to the Roman Pontiff; for it is an odious law which cannot be extended from case to case, nor on the basis of equality of reason. 2°. Furthermore, it is the custom of the Holy Office [Index] Congregation, unless otherwise prevented, not to prohibit books solely because of the lack of the necessary permission for their printing. And we speak from experience, having served as a Consultant in that Congregation since the year 1870. This demonstrates that, in ancient law, there was no general and absolute law prohibiting books solely on the basis that they had been printed and published without legitimate permission. 3°. On the contrary, Leo XIII, in a new Constitution, does not generally state anywhere that any books whatsoever, even innocent ones, are, by their very nature, prohibited by law if they are published without legitimate permission; but he has affirmed this only in certain paragraphs, and concerning books of a special subject matter; which clearly demonstrates that he did not intend to establish a general law. But without a law, nothing can be decreed. However, this opinion is subject to certain difficulties, which must be presented and resolved. And I ask: 1. What is the purpose that the Legislator has set before himself in requiring a license from legitimate authority? Indeed, he requires it so that the faithful of Christ may be absolutely certain of the truth of the granted Indulgences; but without legitimate approval, they will never be able to be certain of this. Therefore, why should books of this kind be read and retained? Is it not so that they may bring profit to publishers who have disrespected the mandates of the Holy See? 2. The asserted opinion leads to the following inference: The Legislator prohibits the publication of books on Indulgences without the permission of competent authority; but if they are published, the faithful of Christ will be able to read and retain them. Therefore, why did he prohibit their publication? 3. The prohibition, therefore, necessarily implies that if we deny it, almost

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all of Leo XIII's legislation will be undermined. And we offer arguments.

[*Latin ed. p. 330*]

350 COMMENTARY § 16. The publication of apocryphal Indulgences is prohibited, and although the Legislator decrees that those which have been published should be removed from the hands of the faithful, he does not, however, explicitly state that they are prohibited. But can the apocryphal Indulgences not be considered prohibited by the Legislator? § 32. The publication of those things which pertain to the causes of the Beatifications and Canonizations of the Servants of God is prohibited without the approval of the Holy Congregation of Rites; however, if they are published, they are not declared prohibited; therefore, even these books can be read and retained without impediment. Similarly, the Collections of Decrees published by the Roman Congregations can be read and retained, as mentioned in § 33, even though they may have been published without the proper authority's permission. Furthermore, § 41 stipulates that books concerning the Divine Scriptures, Holy Theology, etc., must be submitted to prior ecclesiastical censorship; but it does not, however, prescribe the suppression of these books if they are published and made public without prior censorship; therefore, even these books can be read and retained without impediment. Likewise, § 42 prohibits secular clergy from publishing books concerning purely natural sciences without the permission of the Ordinary, so that they may give examples of obedience to their Bishops; however, if, despite such examples of obedience, they publish books, these can be read and retained, as they are not subject to any prohibition. But neither are the books mentioned in §§ 43 and 44 subject to any prohibition, even though a penalty for their suppression is desired, if the Publishers and Printers disregard the authority of legitimate power. But if all these books are exempt from prohibition, how many books remain that are subject to prohibition under the new law? 4°. Finally, it must be added that the Legislator has been careful in other paragraphs to indicate the books that he either partially or generally exempts from prohibition. This is evident from §§ 3, 4, 5, 6, 8, 10. Therefore, what is to prevent him from giving the same warning in the paragraphs we are discussing, if he intended to exempt the books contained therein from prohibition? Surely, no one can deny that this is necessary, since he has forbidden the publication of such books, and the legislator's will must not be ineffective. Therefore, it seems that in Leo XII's Constitution...

[*Latin ed. p. 331*]

COMMENTARY 331. Books published without the proper authority's license are subject to prohibition, with the exception of those which the authority itself exempts from the prohibition. However, although the difficulties presented seem serious, we affirm that the opinion defended by us

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and others should not be abandoned. Before addressing these difficulties, however, certain preliminary considerations must be made, so that light may shine upon the matter. And I. The purpose of the Church is to remove from the hands of the faithful books containing harmful content, so that faith and the morals of individuals may not be corrupted; therefore, the Church has instituted both prior censorship and the authority of competent officials for the printing and publication of books, so that no one may freely publish whatever they wish, nor may they treat of matters that exceed their own capacity, nor may those who lack accurate knowledge of them treat of religion and divine dogmas, lest the Church seem to relinquish its own right, when it allows everyone to speak and write about religion, about the Holy Scriptures, and about other divine matters, concerning which it has the power to decide fully and absolutely. For those things which are subject to another's authority should not, and cannot, be decided or carried out without the permission of that authority. However, all these reasons and causes for prohibiting publications are directed towards that one end, which we have stated, namely, that harmful and pernicious books should not be presented to the Christian people in place of useful and harmless ones. Therefore, if books are published that are truly harmless and useful to the Christian people, the purpose which the Church has set for itself is preserved and safe, even if some condition for the publication of books has been imposed by it. Hence, we have seen that the Church itself has never, by an absolute and general decree, prohibited books of harmless reading, if they had been published without the license of the proper authority. 2°. The force and extent of a law are to be determined primarily by the words in which it is expressed, by the purpose and will of the legislator in enacting it; but, as has already been observed, neither in the ancient law nor in the new law is there a law or decree by which the legislator has intended that even harmless books, published without the authority of the proper authority, should be generally prohibited; on the contrary, prohibitions are found for particular and specially written books. From this, we understand that the legislator has expressed his will concerning those things which he wished to be done; it is to be considered that...

[*Latin ed. p. 332*]

332 Therefore, it is not the intention of the lawgiver to include those things which were not expressly stated; that is, the intention of the lawgiver is not to extend the law to other things which were not expressly sanctioned by the law. 3°. And if any doubt arises concerning the extension of the law, everyone knows that such a law does not bind in cases of doubt. After these preliminary remarks, we will respond to the individual points. And regarding point 1, we say that the principal aim of the legislator is to prevent false Indulgences from being circulated, and that the certainty of Indulgences contributes to this aim; therefore, § 16 expressly prohibits editors and print-

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ers, as well as all others, from publishing apocryphal, proscribed, or otherwise revoked Indulgences, and commands that those already published be taken away from the hands of the faithful. But § 17 concerns the granting of true Indulgences; and although these may be published without the permission of competent authority, they do no harm to the faithful, provided that they have truly been granted by legitimate authority, and that the faithful actually receive them. Furthermore, from the comparison of the sanction attached to both paragraphs, it is clearly evident that the legislator had a different intention, since in the first paragraph, he commands that certain things be taken away from the hands of the faithful, while in the second, he commands that others not be published without the permission of competent authority. But if he had also commanded that the latter be taken away from the hands of the faithful, he would have had to warn the people about it, since otherwise no one would be able to understand the intention of the legislator. But what is stated in the text, that the faithful must be certain of the truth of the Indulgences, and that they must not give profit to editors who disobey, is true. But it is very uncertain whether this will actually happen; for the faithful, being warned, will not buy books containing Indulgences that have been published without the permission of competent authority, and thus they will give not profit, but loss, to the editors. But suppose that they do buy them. We do not know what will follow from this; for the prohibition is not to be determined by the usefulness or uselessness of the thing, but by the will of the legislator, which is what is lacking in this case. Finally, the use of these books will never be useless; for if the concessions of Indulgences are true and legitimate, the faithful will be able to profit from them. Nor should the decree of Benedict XIV, mentioned above, be objected to, in which, under pain of nullity of the grace obtained, he commands that a copy of the granting of general Indulgences be sent to the Secretary.

[*Latin ed. p. 333*]

COMMENTARY 353 of the same Congregation must be submitted before it is published; for in the present question, the matter concerns absolutely authentic Indulgences, of which, as is clear from the reading of the paragraph, no condition whatsoever is lacking for their concession.

2. Whatever that objection may be, it does not follow that it is contrary to the truth of our opinion. For the legislator may have had other reasons why he prohibited the publication of Indulgences without the proper authority, or why he wished to proscribe those published without such authority. Indeed, the principal reason is undoubtedly to prevent false Indulgences from being published, as has happened on several occasions. But what if, on the contrary, only true ones are published, although without the consultation of legitimate authority? Are they therefore to be considered proscribed? This, indeed, would be something that the adversaries would

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have to prove, but we do not know by what argument they could prove it, since there is no express law. From the fact that the legislator's will is that false Indulgences should not be published, it does not follow that he also wishes those to be proscribed which have truly been granted. Indeed, we know that this has sometimes happened in the old law; but it was done by an express sentence and decree. Why, then, is the same not done in the new law?

3. We answer the objection by saying that prohibitions are not to be understood as implied, but are to be expressed in clear terms; and so the legislators have always acted. For a prohibition is either a law, or a sanction attached to a law; but both must be explicit and manifest, and in no way implied. But in the odious law with which we are concerned, nothing is to be understood as implied, lest we overturn that criterion: in odious laws, the least possible is to be followed; and therefore, if the sanction of the law is doubtful, in the case of a prohibition, we are not bound by it. But it is not true that the entire Constitution of Leo XIII would be overturned if our opinion were to prevail. For those who could publish books containing the various paragraphs of the third difficulty are, under all circumstances, prohibited from publishing them, after the conditions prescribed by the legislator have been observed; but these, since they are Catholics, are to be presumed to wish to give due obedience to the Supreme Pastor of the Church; moreover, they could be severely warned by the Bishops, and even subjected to canonical penalties, according to the statutes in § 49. But if the publishers and printers do not publish the books, the faithful of Christ will not be able to read them, nor to keep them. Therefore, the legislator...

[*Latin ed. p. 334*]

534 COMMENTARY of the Author. But it also proceeds from another point; for if these books are harmful and bring ruin to souls, they are prohibited in other paragraphs. If they are harmless, there is nothing to be feared from them. But it is also not the case that only a few books would be subject to prohibition if others were excluded from the prohibition under the aforementioned paragraphs; for all books harmful to reading are subject to prohibition; may there be few such! Furthermore, the prohibition is not urgent unless it is clear from the will of the Legislator, and whatever may be the reason for the prohibition. 4°. The fourth argument can be refuted first. For when the Legislator wishes to prohibit books because of a lack of a certain license, He declares this openly, as is evident from paragraphs 13 and 20. But He does not declare that books printed without the proper license are in any way prohibited; therefore, they are not subject to prohibition. But the objection exclaims: And why did He not warn about this? The answer is clear: because He did not wish to prohibit; for whatever the Legislator has not expressed, He is to be considered to have not willed. Then, the equality of the arguments must be denied. For the books which,

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either partially or generally, the Legislator exempts from prohibition in the new law, are not found to have been prohibited in the old law because of a lack of a proper license, but for other reasons, as is evident from the reading. Therefore, the argument collapses. Hence, the last accusation is denied, for the same reason, because if it were true, the new law would be much stricter than the old; for almost all books would be subject to prohibition, contrary to the explicit and manifest will of the Legislator.

56. Authentic editions are those which have been approved by legitimate authority, and therefore have authority; since the Missals, Breviaries, and Rituals contain the liturgy which is to be observed throughout the Church; it follows that the liturgy for the entire Church pertains to the Roman Pontiff alone. Therefore, the Missals, Breviaries, etc., are authentic when they have been approved by the Apostolic See; which, furthermore, is explicitly stated in the paragraph. The Constitutions of the Roman Pontiffs concerning the books of the liturgy which are not to be changed, are placed before the respective books. Pope Pius V, on July 12, 1570, having issued the Constitution *Quo primum*, after having asserted the diligence He had applied in preparing a new edition of the Missal, commanded: "This Missal of ours..."

[*Latin ed. p. 335*]

COMMENTARY 555: By this published decree, nothing is ever to be added, subtracted, or altered in determining [the Missal], under penalty of our indignation, and this is established and ordered by this Constitution, which shall remain perpetually valid. In order that the Missal, which We have published, may preserve its complete fidelity, We command and threaten all Catholic printers who follow: "That, in order that it may be preserved everywhere throughout the world, uncorrupted and purged of errors, We decree that all printers residing within Our dominion and that of the Holy Roman Church, whether directly or indirectly subject to Us, shall, upon the very fact of printing, be subject to the loss of their books and the payment of one hundred gold florins to the Apostolic Camera; and that those residing in any other part of the world shall be subject to a sentence of excommunication and other penalties at Our discretion, unless they are permitted, with Our license and that of a special apostolic commissary appointed for this purpose in those parts which We have constituted, and unless they receive from the same commissary a copy of the Missal, from which the printer shall receive the standard for printing other copies, and which, when compared with the Missal printed in the city according to the large edition, shall be found to agree completely and not to differ in any way from the previously faithful edition; they shall not be permitted in any way to print, or offer for sale, or receive such a Missal." However, with the passage of time, through the negligence or audacity of printers or others, many errors have crept into the Missal; for this reason, Clement VIII, in the

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Constitution *Cum Sanctissimum*, dated July 7, 1604, first prohibited the printing of corrupted Missals and forbade their use in the celebration of the Mass; then He ordered that the Missal be restored to its original and most corrected form, with certain additions and declarations added, and that it be printed in the Vatican printing house, which had corrected it most carefully; afterwards, He decreed the following: "In order that its use may be preserved in all parts of the Christian world, for all future times, We decree that the Missal shall be printed only in Our beloved City, in that same printing house, and nowhere else; and We permit that outside the City, it may be printed according to the model published in that printing house, and in no other way, so that, in order that any printer who wishes to print it may do so, he must first obtain it in writing..."

[*Latin ed. p. 336*]

556 COMMENTARY: "Concerning the investigation of heretical depravity among chosen sons of the Inquisition in those places where they have been, and where they have not been, by the license of the local Ordinaries." And then he proceeds to impose the most severe penalties against those who transgress the established law. And Urban VIII, in the Constitution *Si quid*, dated September 2, 1634, established this very thing (a). The aforementioned Popes of Rome also took up the concern for amending and publishing the Breviary (b). St. Pius V, in the Constitution *Quod a nobis*, dated July 9, 1568, decreed that in all churches, the Breviary composed by him should be recited, having abolished all previous Breviaries, except those which had been approved by the Apostolic See and had been in use for 200 years. He decreed that the Breviary itself should never, at any time, be altered either wholly or in part, nor should anything be added to it, nor should anything be entirely removed from it. Furthermore, he added that whoever should print, propose, or accept anything contrary to this, would be excommunicated by the very fact. Clement VIII, having observed that in the Breviary of St. Pius V, with the passage of time, through the negligence of printers, carelessness, and other audacity, many defects had crept in, took steps to remove these; and subsequently, on May 1, 1602, he issued a Constitution *Cum in Ecclesia catholica*, by which he ordered that the Breviary itself should only be printed in our beloved city of Rome, and that too, only in the same printing house (Vaticana); and that outside the city, it should be printed according to the exemplar now published in that printing house, and not otherwise, and that those who should print it contrary to this would be subject to a large excommunication, from which they could not be absolved except by the Roman Pontiff, except in the hour of death, and other severe penalties. When complaints were made to Urban VIII that certain things in the Roman Breviary had fallen away from their original excellence, and that others had been left incomplete, he took steps to have the Breviary corrected again, restored to its former splendor, and

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accurately printed; and he subsequently ordered that those who should print the Roman Breviary afterward should follow that exemplar, and that all should be subject to the most severe censures and penalties (c). (a) These preceding Constitutions are found in the Roman Missal. (b) Whoever desires to read the history of the Roman Breviary, should consult the work of Peter Battitoi, *Histoire du Brevimaire Romain*; which work is both concise and excellently written. (c) Nevertheless, many things still remain to be amended in the Roman Breviary, for there is not one historical account that is not apocryphal, nor one passage that is not a fabrication.

[*Latin ed. p. 337*]

COMMENTARY 337. In correcting and restoring the Roman Ritual, the Ceremonial of Bishops, and the Roman Pontifical, the following Popes exerted themselves: Pius V, Clement VIII, Innocent X, Paul V, Urban VIII, Benedict XIII, and Benedict XIV, the latter, in his Constitution *Quam ardenti studio*, which is read above in the Ritual, the Ceremonial, and the Pontifical, and approving the decrees of his predecessors in this matter, granted and bestowed the faculty that the Roman Ritual, the Ceremonial of Bishops, and the Roman Pontifical should be reprinted and published in the same manner and form in which they are now found and used in print. Therefore, the Roman Pontiffs, with the gravest threats of penalties, and even with the sentence of excommunication, forbade anyone from making alterations in the authentic editions of the Missal, the Breviary, the Ritual, the Roman Pontifical, the Ceremonial of Bishops, and other liturgical books, such as, for example, the *Diurnum*, the *Officium* of the Blessed Virgin Mary, containing the words of St. Jerome the Presbyter in the new Office of the Immaculate Conception, which was perhaps not written before the eighth century. What about the readings and the prayer of St. Catherine the Virgin and Martyr: "O God, who gave the law to Moses on Mount Sinai, and in the same place, through your holy angels, miraculously placed the body of your blessed Martyr Catherine?" What about the Responsorial Psalm III of the first Nocturn in the Office of St. Clement the Pope and Martyr: "You gave a dwelling place to your Martyr Clement in the sea, O Lord, etc." These things are said to the Lord with some distress of mind. And what is perhaps even more serious: after the definitive declaration of the Immaculate Conception of the Blessed Virgin Mary, that passage of St. John Damascene is not read, which is found in the Second Nocturn, Lesson 2, of the Office of her Assumption: "But she yielded to the law established by him who generated her, and as the old Adam was subject to the old law, so too..." Nor is this passage of St. Ambrose read: "Here the mother is shown to be subject, because she still requires those things which are human (Dominic. infr. oct. Epiph.), which cannot be reconciled with the perfect holiness of the all-holy Mother, who, being greater than all creatures under God, could not be conceived in a state of sin." In the Feast

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of St. Felix II, Pope and Martyr, the Second Nocturn reads the words of St. Augustine the Bishop, in praise of St. Cyprian of Carthage. Among other things: "Undoubtedly, the Church was then sad, not because of the loss of a thing, but because of the departure of one she loved, always desiring to see present such a good leader and teacher." But these words cannot be applied to Felix II, since Theodoretus wrote about him: "He maintained the faith of Nicaea, which he had professed, without blemish, but he communicated freely with those who corrupted it." And how could this have happened, so that when he was inside the Church, no citizen of Rome entered? *Hist. Eccl. lib. II, c. XIV. (P. G. LXXXII. 1039).* Surely, the Romans pursued Felix with such love and desired to see him! But what is found in the third reading, which seems to be very appropriate to St. Cyprian, is very far from the history of Felix II, so that these readings, in praise of Felix II, should be completely abolished, and others, if it seems fitting, should be substituted. We pass over in silence the account of Constantine being baptized by St. Sylvester in Rome, and other similar things. We have heard that Leo XIII, as well as prohibiting certain books, also intends to undertake a correction of the Roman Breviary and Missal. And may such a correction be brought to execution as soon as possible! Acts, Vol. XXX, page CCCLIV, 22.

[*Latin ed. p. 338*]

338 ^ COMMENTARY: Regarding the *Gynae*, the Office for the Dead, the Holy Week services, etc., it would be altered, either by addition or by subtraction. Indeed, these penalties are abolished in the new law, since, according to the decree of the Constitution *Officiorum et munerum*, no other penalty is imposed on those who violate the law, except for the damage that necessarily results to them because of the publication of new editions that differ from the authentic ones. And it should be noted that these new editions are prohibited, even if the alteration is of a lighter nature, whether by mutilation, by interpolation, or by transposition, etc.; for the Legislator says, "Let no one presume to change anything." From the reading of the paragraph, it appears that everyone is given the faculty to print liturgical books, since no one is excluded, and nothing else is required except conformity with the authentic editions. Therefore, editors and printers, whoever they may be, can print any liturgical books, thanks to the license granted by Leo XIII, provided that they keep this one thing in mind: that the new editions must be completely in conformity with the authentic editions, otherwise they will remain prohibited; hence, neither the faculty of the Holy Congregation of Rites, nor the license of Bishops, is required for the preparation of such new editions, after the Constitution of Leo XIII. Nor is this opinion contradicted by § 33; for therein is discussed the printing of collections of decrees of the various Roman Congregations; but liturgical books are neither decrees, nor do they come under the name of decrees. Nor is it contradicted by § 41, which requires that books concerning the

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Divine Scriptures, Holy Theology, etc., be subjected to prior ecclesiastical censorship; for among the books mentioned therein, liturgical books are not included; moreover, that paragraph deals with treatises and other writings composed by various authors on the Holy Scriptures, Theology, and Church History; but liturgical books are not of that nature. But neither is it contradicted by § 44, which states that printers and publishers of books must obtain a new approval for new editions of the same work; for liturgical books are neither works, nor do they come under the name of works. Indeed, we strongly doubt whether this concession will last; but as long as it is not revoked, the opinion we have advocated seems true and certain.

[*Latin ed. p. 339*]

COMMENTARY 339 57. The litanies which are contained in the Breviaries, Missals, Pontificals, and Rituals are those commonly called the Greater Litanies, or Litanies of the Saints, although in earlier times a distinction was made between the two. It is clear that they are very ancient, since their institution is attributed to Saint Mamertus, Bishop of Vienne in France, around the year 470, who is said to have introduced them into his church; however, it is more accurately said by those who, according to Sidonius Apollinaris, affirm that Saint Mamertus established the litanies, which previously were wandering, tepid, infrequent, and hesitant, to be recited for three days preceding the solemnity of the Ascension of Our Lord Jesus Christ, which days are the Rogation Days, which he himself instituted (a), in which Christians ought to exercise themselves in fasting and prayer. In these [litany] which Mamertus presented to us, both then and now, one fasts, one prays, one chants, one weeps. (Lib. V, Ep. 14) (b). However, others attribute the institution of the Greater Litanies to either Saint Gregory the Great, or Saint Leo the Great; others maintain that they are older still; others say that they date back to the Apostles themselves (c). Whatever the case may be (for it is not our concern to discuss such matters), it is certain that the Greater Litanies are very ancient. As for the Litanies of the Blessed Virgin Mary, which are called the Lauretan Litanies, the time of their institution and the name of their author are unknown to us. Some have written that the Lauretan Litanies may have been called, or may have been said, either because they were composed after the translation of the Holy Shrine, or because they began to be recited there; or because they were solemnly recited every Sabbath in the Lauretan temple; or even to distinguish them from other litanies, with which the faithful previously honored the Blessed Virgin, and which were later prohibited by Clement VIII and Paul V (d). (a) "Whose solemnity our father and pontiff Mamertus first discovered, instituted, and introduced, by a most reverent example and a most useful practice." Thus, there is no reason to doubt that the Rogation Days were instituted by Saint Mamertus, and consequently, that the Litanies of the Saints were also instituted by him. (b) P. L. LVIII,

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544. (c) Cf. Selvaggio, *Institutiones antiquitatum Christianarum*, Vol. III, page 95; Moroni, *Dizionario di erudizione ecclesiastica*, V. Litanie maggiori; *Cursus Theologicus completus*, Vol. XVII, column 1308; *De Santi Litanie Laureiane*, page II, Edit. 1897. (d) Cf. Franciscus Antonius Mondelli, *Sopra le Litanie Lauretane*. *Raccolta di Dissertazioni di Storia Ecclesiastica* per cura di Franc. Antonio Zaccaria, Vol. III, Dissert. 42. But it is absolutely necessary to read P. Angelus de Santi, S.I., *Le Litanie Lauretane studio storico critico*. Rome, *Civiltà Cattolica*, 1897. For the author has presented the matter in such a way as to resolve all questions concerning the Lauretan Litanies.

[*Latin ed. p. 340*]

340 COMMENTARY: To refer to the sanction of Clement VIII, here is the decree which the Most Holy Fathers issued on September 6, 1601: "Because many at this time, even private individuals, in order to foster devotion, publish new litanies daily, so that almost countless forms of litanies are now circulating, and in some are found inept phrases, and in others (which is more serious) dangerous and erroneous sentiments; wishing to provide for their pastoral concern, so that the devotion of souls, and the invocation of God and the Saints, may be fostered without any spiritual peril:

§ 1. They decree and command that, retaining the most ancient and common litanies, which are contained in the Breviaries, Missals, Pontificals, and Rituals, as well as the litanies of the Blessed Virgin, which are usually recited in the Sacred Shrine of Loreto; whoever wishes to publish other litanies, or to use those already published in churches, or chapels, or processions, must submit them to the Congregation of Sacred Rites for examination, and if necessary, for correction, and they shall not presume to publish them publicly, or to recite them publicly, without the license and approval of the aforementioned Congregation, under penalties (beyond sin) to be severely imposed at the discretion of the Ordinary and the Inquisitor."

Alexander VII, by the Constitution *In supremo militantis*, dated May 28, 1664, forbade anything from being added to the Litanies of Loreto: "Nor shall anything be innovated in the Litanies of the Blessed Virgin." This decree was renewed by the Congregation of Sacred Rites on December 20, 1864 (a). Thus, our Legislator has faithfully adhered to the decrees of his predecessors in this matter.

The Litanies of the Most Holy Name of Jesus, which are now found in the New Rituals, were approved by the Sacred Congregation of Rites on January 16, 1886, with the following decree:

DECREE FOR THE WHOLE WORLD: "The Most Holy Name of Jesus has always and everywhere on earth been followed by the most outstanding veneration and singular honor by the faithful; for there is no other name given under heaven, in which we must be saved (Acts IV. 12). To this significance of veneration and honor, Christian piety has devised many

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observances and many praises, by which the most august name may be worthily and holily celebrated." (o) *Acta S. Sedis* IV, 45.

[*Latin ed. p. 341*]

COMMENTARY 341: "Indeed, many litanies composed in honor of the Most Holy Name of Jesus should be encouraged; although not all are equally reliable, they have nonetheless spread widely throughout the world. To ensure that there was no undue variety in this genre, the Most Holy Pope Pius IX approved, through the Sacred Congregation, the Litanies of the Most Holy Name of Jesus, which were to be retained henceforth by all the faithful, and granted the Sacred Congregation the faculty of declaring to the faithful who recited them devoutly, that they would be granted an indulgence of three hundred days, provided that the Sacred Ordinaries had specifically requested this grace for their respective dioceses. When, recently, several Bishops presented prayers to the Most Holy Lord Pope Leo XIII, imploring Him to grant this very indulgence to the faithful of their dioceses who recited the aforementioned litanies, His Holiness, desiring that the piety of the Christian people towards the venerable Name of Jesus be fostered and increased ever more, especially in these times in which that most sweet name is so boldly and so frequently blasphemed by the wicked, in an audience held on January 16, 1886, before the undersigned Secretary of the Sacred Congregation for Indulgences and Sacred Relics, graciously extended to all the faithful of both sexes, who shall have recited, at least with a contrite heart and devoutly, the Litanies of the Most Holy Name of Jesus, as set forth in the present decree, and no other, the aforementioned indulgence of three hundred days, applicable also to the souls in Purgatory, and to be gained only once a day. His Holiness wished to grant this grace perpetually and without any brief. Notwithstanding any contrary provisions. Given in Rome, from the Secretariat of the Sacred Congregation for Indulgences and Sacred Relics, on the 16th day of the month of January, in the year 1886. I. B. Cardinal FRANZELIN, Prefect. Franciscus Della Volpe, Secretary." (a) Therefore, except for the greater litanies, or the litanies of the Saints, the Lauretan litanies, and the Litanies of the Most Holy Name of Jesus, which are found among the approved litanies (a) *Acta S. Sedis* XVIII, 509, where the approved litanies are also found.

[*Latin ed. p. 342*]

342. COMMENTARY: Regarding those prayers and hymns which are found in the Breviaries, Missals, Pontificals, and Rituals, they may be printed and published; all others must be edited and published only with the revision and approval of the local Ordinary. Therefore, printers and publishers are not, after the Constitution *Officii et munerum*, obligated to appeal to the Holy Congregation of Rites, neither for ancient prayers

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already mentioned, nor for new ones; not for the ancient ones, since they have already received permission to faithfully print and publish them from Pope Leo XIII in the present paragraph; nor for the new ones, since the revision and approval of a Bishop is sufficient. We do not wish to avoid the question which naturally arises from the words of the law. Some Bishops might think that, since the power of revision and approval of other prayers has been granted to them, they also have the power to introduce those prayers into public use for the faithful. However, this is false; for the law granted by Pope Leo XIII concerns the revision and approval of *other* prayers, and not those pertaining to liturgical worship; therefore, as before, the authority of the Holy Congregation of Rites is required for reciting other prayers in public churches. Both, however, are clearly stated in the Decree of the Holy Office of April 18, 1860: *De Litaniis edendis* (Concerning the publication of prayers): "All prayers, except the most ancient and common ones which are contained in the Breviaries, Missals, Pontificals, and except the prayers of the Blessed Virgin Mary which are customarily recited in the Basilica of Loreto, must not be published without the revision and approval of the Ordinary; nor must they be recited publicly in churches, public chapels, and processions, without the permission and approval of the Congregation of Rites." (a) In this Decree, revision and approval are indeed asserted for the Bishops, but liturgical authority is granted to the Sacred Congregation of Rites. However, no one is prohibited from privately reciting such prayers after the revision and approval of the Bishop, unless it is understood why the Bishop approved them.

In paragraph 20, the discussion concerns books or booklets of prayers; therefore, loose sheets and writings are excluded, which in no way fall under the name of books or booklets.

(a) *Acta S. Sedis* XXVIII, 67.

[*Latin ed. p. 343*]

COMMENTARY 343. Furthermore, prayer books are those which contain various prayers, whether addressed to God, to Christ, to the Blessed Virgin Mary, to the Saints, or which include other exercises of devotion. Also, by "books of instruction and religious doctrine" are understood Catechisms, or other treatises, which explain either the mysteries of our religion, or the rites and efficacy of the Sacraments, or those things which pertain to the execution of divine commandments or the precepts of the Church, or the duties of the various states of life to which men are bound. Moral instruction books are those which aim to properly instruct men's morals, based on requests derived from divine revelation, or from moral philosophy, using appropriate and true principles. Ascetic works provide rules by which souls are guided towards the path of perfection through ordinary means. Mystical works deal with spiritual contemplation; that is,

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they instruct and guide men concerning the supernatural and extraordinary gifts by which souls are sometimes enriched by God; for example, concerning visions, revelations, illuminations of the mind, ecstasies, raptures, etc. These and other similar books, although they may seem to contribute to the fostering of the piety of the Christian people, or indeed do contribute, cannot be published without the permission of legitimate authority. This legitimate authority is the Bishop of the place in which these books are published, since, according to what is stated in § 35 of the book, any book for which neither the Apostolic See nor the Roman Congregations reserve the right of censorship, falls under the authority of the local Bishop, in whose jurisdiction it is made public; the censorship of the books mentioned in the present paragraph is in no way reserved. Authors, printers, and other publishers of books must remember that such books, published without the permission of the Ordinary, remain, by law, prohibited, even if they contain nothing harmful. The most excellent authors of the *Monitore Ecclesiastico*, Volume and Fascicle cited, write that, according to the statutes of ancient law, the books mentioned in the present paragraph were subject to ecclesiastical censorship; however, this law only bound the authors and publishers, and not the readers and possessors, who were therefore able to read and retain these books.

[*Latin ed. p. 344*]

544 COMMENTARY: But we do not know how truthfully this was written, at least with regard to books of devotion; indeed, on August 4, 1877, the Congregation of Sacred Rites was asked: Is it permitted to add a translation into the vernacular language to the Latin text of the Order of the Mass, and especially the Canon, in books of devotion? It responded: "The books and their translations into the vernacular languages of which we are speaking are entirely subject to the authority of the Bishops, and therefore it is not permitted for the faithful to use these editions, unless they bear the express approval of the Bishops" (a). But if it was not permitted for the faithful to use the aforementioned books without the approval of the Bishop; therefore, the censorship, or prohibition, did not only affect the authors and publishers, but also the readers and possessors.

59. Diaries are writings that appear and are published daily, whether they consist of one or more sheets. Sheets are those which contain as many pages as the adopted edition allows; in folio, in 4°, in 8°, etc.; and they can be daily, weekly, etc. Periodical booklets, that is, small books, are said to be those which are published on established days; for example, every week, every month, or at another certain time, after which they are published again. Such writings, if they attack religion or good morals, are prohibited by both natural law and ecclesiastical law. However, let no one think that, in this paragraph, the word "religion" should be understood to mean only the Catholic religion; for the word is general, and encompasses any true

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religion; for what harm can be inferred, either to faith or to the honesty of morals, by attacking either natural religion or any revealed religion? For no one could demonstrate the true religion of Christ, if the Mosaic religion were assumed to be false, and both would plainly be ruined, if natural religion were to be slandered. Moreover, the word "religion" is taken in the same sense in paragraphs 2 and 3; and henceforth, the Legislator is accustomed to explicitly name the Catholic faith and religion, when he speaks only of it, as he does in paragraphs 3 and 5. "They were required to undergo ecclesiastical censorship; but because formerly the censorship only obligated the authors and publishers, not the readers and possessors, today the censorship obligates everyone." (a) Acta S. Sedis XXVIII, 68.

[*Latin ed. p. 345*]

COMMENTARY 545. Although the term "religion" encompasses both natural and revealed religion, it should not be thought that only the most abominable books, such as those of Diana Veteranorum and similar works, are prohibited, since they attack both forms of religion; it is sufficient if they disturb either the natural or the revealed religion. Indeed, the words of the law are true in both cases, when both natural and revealed religion are truly attacked; and the prohibition, whether sought from natural or ecclesiastical law, affects both, not conjunctively but disjunctively; that is, books contrary to natural religion are considered prohibited by natural and ecclesiastical law; similarly, books contrary to revealed religion. But what does the ecclesiastical prohibition add, or what does it contribute to the prohibition imposed by natural law? Indeed, these books, Diana Veteranorum, etc., are prohibited not only by natural law but also by ecclesiastical law. This question, which at first appears difficult, has been excellently answered by the learned Vermeersch in his work, page 44. For, by natural law, we are prohibited from reading books contrary to religion because of the danger of spiritual ruin; however, many are there who, being endowed with doctrine and piety, incur no danger, nor even the remotest danger, from such reading; and this is evident from the doctors who undertake the refutation of any errors; for this reason, such books are not prohibited by natural law; for there is no reason why they should be prohibited. Therefore, the ecclesiastical prohibition adds to the prohibition of natural law, so that even those who would not incur any danger to their souls from reading such books must nevertheless abstain from their reading. Thus, the Church's prohibition is more severe and more extensive than that of natural law. And from this, no opposition or conflict arises; for what is not prohibited by natural law can also be prohibited by ecclesiastical authority, and indeed by civil authority, as is clear from many laws and decrees. And this is most wisely done; for the application of the law should not be abandoned to the judgment of everyone, lest some might think that what is prohibited by natural law would not be harmful to them; but legislators

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do not know to whom the reading of a certain book, for example, might be harmful; they do know, however, that it is most harmful; but the law must be general, so that if it were particular, it would be converted into a precept, and everyone would try to avoid it, as if it were not intended for them; therefore, legislators wisely prohibit the reading of harmful books, which are also prohibited by natural law, lest anyone...

[*Latin ed. p. 346*]

346. Some individuals may apply to themselves an exception permitted by law, and thus render void the very law of nature. It is well known that, at times, both ecclesiastical and civil legislators are compelled to declare a natural law void, lest a wide path be opened to fraud and controversy. Examples may be found in testaments, in contracts, and even in the very Christian marriage. Therefore, whatever is prohibited by the law of nature, must be considered prohibited by any law; however, conversely, whatever is permitted by the law of nature, we ought to consider permitted also by ecclesiastical law. Nevertheless, in order that these *Diaria*, *Folia*, and books may be of benefit to religion or good morals, they must be undertaken with diligence, with industry, and with deliberation; in Italian, *a bella posta*, *a bello studio*, *apposta*, meaning diligently, studiously, and deliberately. This term differs from another term, which implies writing or teaching about a given subject, setting forth the matter clearly and with a series of arguments and examples, in order to persuade the readers; in other words, to teach the readers what is intended, as public professors do, and as authors do who write books on a particular subject, of which the great majority deal with that subject. And in this sense, Quintilian wrote: ″to expound philosophy *ex professo*″; that is, publicly, openly, and in a formal manner. And Valerius Maximus wrote: ″to conduct hostilities *ex professo*.″ Facciolati aptly captured the meaning when he wrote: ″*Ex professo* means: not secretly, and as if by profession.″ Now, these words are transferred from persons to books, and the meaning of the word will be most clear. Therefore, everything that is done *ex professo* is also done with diligence; but the reverse is not necessarily true, since this term does not extend so far, nor does it encompass so much as the term *ex professo*. Since it is evident from experience that such *Diaria*, *Folia*, etc., can cause great harm to the faithful, it is the duty of Bishops, either through public edicts or through the ministry of the word of God by priests and preachers, to warn those subject to them to abstain from reading them. Nor should they be slow or remiss in this matter; for it is a matter of the ruin of souls, and the Bishops themselves will have to give an account of the souls entrusted to them. However, since not all the writings in these *Diaria*, *Folia*, and books promote religion or good morals, how can it be determined which ones are prohibited and which are not? Indeed, the evil

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that they contain cannot be known before they are read.

[*Latin ed. p. 347*]

COMMENTARY 547: Nor is anyone bound to abstain from reading a written work if he does not know whether it is harmful; once it has been read, the law becomes useless. It must be understood that such periodicals, pamphlets, and booklets are to be considered prohibited if, in a number of issues, or frequently, they undermine religion or good morals (understood in a disjunctive, not a conjunctive, sense), or if, whenever the opportunity presents itself to the authors, they do so, provided it is not rare. Therefore, if it happens that some issues contain nothing harmful, even these are to be considered prohibited, since the prohibition does not apply to particular issues, but to the entire series, or the publication itself; for the term "periodicals, etc." cannot be understood to refer to separate pamphlets or booklets; otherwise, they would not be periodicals or publications, but rather they would necessarily be understood as the entire series or publication, from which it follows that they are periodicals or publications. Finally, it must be noted that such periodicals must, by their very nature, aim to promote religion or good morals; otherwise, they are not subject to prohibition, since the penal law is to be interpreted strictly. Consequently, it follows that if one or two issues of a publication series, and no more, promote religion or good morals, even if they do so intentionally, provided that they do not reach the quantity of pages required by Doctors to constitute a book (8 or 10), neither the issues nor the series are subject to prohibition; not the series, because this is not understood under the concept of one or two issues, and furthermore, the law applies to the series, not to separate issues; not the issues, because in the Constitution of Offices, there is no law that prohibits bundles of pages that do not reach the proper quantity for a book, if they promote religion or good morals intentionally; we are speaking of ecclesiastical law; by natural and divine law, they remain prohibited. Finally, we cite the decree issued by the Congregation of the Holy Office on January 13, 1892. The following question was posed: "Whether those who knowingly read periodic publications in bound volumes, having a heretical author and promoting heresy, incur excommunication, concerning which the Apostolic Bull of the Holy See of October 12, 1869, in the matter of excommunication (from 'communicationibus'), reserves to the Roman Pontiff a special manner, art. 2." R. Affirmative. (a) (a) Acta S. Sedis, XXVIII, 66.

[*Latin ed. p. 348*]

COMMENTARY 60. This prohibition is absolute. For, although it may sometimes be permitted to Catholic men, even ecclesiastics, upon the prompting of a just and reasonable cause, to insert something into these newspapers, pamphlets, or booklets concerning religion or good morals,

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this does not pertain to the reason or essence of the composition and collaboration in producing, editing, and revising the newspaper, pamphlet, or booklet, but is something external and entirely foreign, indeed, contrary to the very nature of the newspaper, etc.; as if a Catholic man, whether lay or ecclesiastic, were to insert an article to refute a calumny made against himself or his group, or to refute an error concerning religion or morality, or to defend an innocent man unjustly accused, or to describe and narrate a supernatural event or a fabricated or distorted fact, according to the truth of the matter, etc.; for these things, at least some of them, are repugnant to the nature of such newspapers, and are plainly opposed to them; yet editors are sometimes compelled to insert such things in order to avoid the penalties prescribed by law. Therefore, in the absence of a just and reasonable cause, no Catholic, much less an ecclesiastic, can insert anything into such newspapers; for the words of the law are very clear: "No one among Catholics, especially among men of the Church, may insert anything in such newspapers, or pamphlets, or periodicals, unless prompted by a just reason." And this provision of the law is most salutary and entirely necessary. 1. Indeed, it is improper and plainly unworthy of a Catholic man, especially an ecclesiastic, to work on such newspapers, pamphlets, or booklets; for they expose him to the accusation of suspect faith or lax conscience, since no prudent, wise, and honorable man could persuade himself that those who contribute their efforts to such publications are truly Catholic, or worthy ministers of the Church. 2. Furthermore, they cause scandal to all good people and open the way to countless detractions. 3. They generate evils that are neither light nor few, since many will think that those publications are not so harmful, since even lay Catholics, and even men of the Church, devote their efforts to them. 4. Therefore, they cause such bad writings to gain wider circulation, and to spread their poison more safely and extensively.

[*Latin ed. p. 349*]

COMMENTARY 349: Briefly: these Catholic and ecclesiastical men cooperate with all those evils which such publications produce. Those, however, who, compelled by a just and reasonable cause, are forced to insert some article in them, should understand that the entire series, or the publication itself, is subject to prohibition, and that Catholics cannot read or retain it; therefore, they either waste their oil and labor while inserting good articles in these journals, or they provide an opportunity for Catholics to buy at least those fascicles in which good articles are found. But are they to buy them so that they may only read the good articles? Surely, they desire to read even the bad articles that are refuted, so that they may recognize the power and truth of the refutation. It will certainly be more prudent, unless something else necessarily prevents it, to insert the articles they wish to insert in other periodicals that are least tainted by the stain of impiety;

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in this way, they would safely provide for themselves and for their cause, and would render due obedience to the will of the Roman Pontiff. On the occasion of this commentary, we ask the most excellent writers of Catholic periodicals not to be angry with us, if, led by zeal for the truth, we advise them that, if at any time they should undertake a refutation of some error against the faith, good morals, or some historical fact, especially a supernatural one, they should do so vigorously and with the most solid arguments, so that they may completely silence the erring. Indeed, we know that the writers of the worst journals have sometimes boasted of the slight and utterly superficial refutation presented by Catholics: "They have not refuted us," they said, "they have not answered us." And we must confess that they were truly boasting; for the Catholic writer's response, of which we are speaking, was so slight and unconsidered that it did not at all refute the sophisms of the opponents. Such a manner of writing produces many bad results, rather than good, since the erring are more and more confirmed in their errors, while learned Catholics, on the contrary, despise and reject Catholic periodicals. Let not Catholic writers be led by this false criterion, which makes them think that they will bore their readers if they use profound reasoning and solid arguments; rather, they must act according to the understanding, intelligence, and disposition of the majority of readers; for the men of our age desire superficial learning, not solid knowledge.

(a) This is something that they have sometimes responded to us.

[*Latin ed. p. 350*]

350 COMMENTARY. Indeed, this is not true in the first place: for he who reads, desires to know the truth; and we know that this is inherent in human nature. Truth, moreover, which is sought from others, does not require to be demanded, but must be demonstrated; and demonstration is completed by a solid argument, not by one that is light and uncertain. Furthermore, he is always considered worthy of reprehension who conducts his work so negligently that he endangers the truth, and in some way confirms error. It is better to leave an error without refutation, than to refute it with futile reasoning; for in the first case, it remains in the state in which it was; in the latter, it acquires some semblance of truth, since it has not been refuted by those who could, should, and wished to refute it. Although these transgressors of the law do not incur any canonical penalty, they can nevertheless be rebuked by the Bishop, and even punished with canonical penalties, if it seems opportune, according to the decrees in paragraphs 49 and 61. Books *proscripti* according to special decrees are understood to be those which have been prohibited by either the Sacred Congregation of the Index, or by the particular decrees of the Sacred Congregation of the Holy Office, and which have been placed on the Index of prohibited books. Books *proscripti* according to general decrees are those which are included under various paragraphs of the Constitution *Officiorum*; from

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which it is understood that, by virtue of this Constitution, there are more books prohibited than there is a special decree of prohibition; that is to say, it can now happen that what happened in the old law, namely, that books are prohibited, not only those expressly named in the Index, but also those prohibited by the Tridentine Rules, and by decrees concerning prohibited books. Therefore, no one can read these books, unless, either directly from the Apostolic See, which is rare, or from those to whom it has delegated its authority, he has obtained permission to read and retain them. Indeed, the Apostolic See has delegated its authority to the Supreme Congregation of the Holy Office, to the Sacred Congregation of the Index, and to the Master of the Sacred Palace for the City [of Rome] alone; but it can also delegate to others, for example, to Bishops, to Inquisitors against heretical perversity, and to others; for the Apostolic See can grant this power to whomever it pleases. But this will be discussed further below. 62. From the Constitution *Sollicita et provida* mentioned above, §§ 1 and 2, it is clear that the Roman Pontiffs have delegated to the Congregations of the Holy Office and the Index those matters which pertain to the prohibition of books.

[*Latin ed. p. 351*]

COMMENTARY 351 pertains to the matter of reading. However, the entire business concerning books is now administered by the Holy Office, although something of the authority of the Supreme Inquisition remains. The Holy Congregation for the Propagation of the Faith was instituted by Gregory XV in the year 1622, and it possesses the faculty of permitting the reading of books previously prohibited to those who reside within the areas subject to its authority; this is most clearly demonstrated by numerous decrees and concessions which can be read in the Collection of that same Holy Congregation, page 765. However, this Congregation can grant to its subordinates such faculties as it permits the Supreme Inquisition to grant in the forms or regulations which it prepares for those to whom it transmits them, and sometimes it grants broader, and sometimes stricter, licenses, according to the circumstances, condition, and reasons presented by those who have requested the appropriate faculty to read prohibited books (a). Nevertheless, this same authority also pertains to the Master of the Sacred Palace, Apostolic, who, in former times, could indeed grant the faculty of reading prohibited books, those which the Decrees of Trent permitted, as is evident from the Instruction of Clement VIII, § 2 (b); but also other books absolutely prohibited, with certain exceptions, solely for the City [of Rome] and its district. For the confirmation of this matter, we write the following from entirely authentic documents: "The Master of the Sacred Palace, Apostolic, can use the faculty granted to him by the Apostolic See to grant such licenses (that is, to read and possess prohibited books), as he has hitherto done, with the limitation, which was issued by the Holy Congregation of the Office on January 19th of the year 1623 (under Gregory

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XV), namely, 'only in the City [of Rome], and with the exception of those books which were then excepted in the same Decree of the Office, and in the Decree of Urban VIII issued on October 30th of the year 1631'." For this reason, while those who have obtained the appropriate license, either from the Supreme Inquisition or from the Holy Congregation of the Office (a) Cf. Arndt, *De Libris Prohibitis*, page 250. (b) "If anyone should desire, for some certain reason, to have the power to possess or read a book, or several books, which are permitted according to the aforementioned Regulations, before its expurgation; the right to grant this faculty outside the City belongs to the Bishop; in Rome, to the Master of the Sacred Palace." Examples may be read especially in Regulations II, III, IV, VI, VIII.

[*Latin ed. p. 352*]

352 COMMENTARY: They can use it anywhere; those who have obtained it from the Holy Congregation for the Propagation of the Faith will be able to use it in all places subject to them, if it has been granted without any territorial limitation; but if it is granted with a limitation to a Vicariate, kingdom, province, then only in those places to which the faculty is restricted as stated. Those who have received it from the Master of the Apostolic Palace, only in the City [Rome] and its District, and not outside.

63. Urban VIII, on April 2, 1631, abolished the faculties and licenses for reading prohibited books: "All and each licenses for reading and possessing books, whatever they may be, because of heresy or suspicion of false doctrine, or through apostolic constitutions, even concerning judicial astrology, or in any other way prohibited, to any lay or ecclesiastical persons, both secular and regular, of whatever Order, Society, and institution, and with whatever dignity, even ecclesiastical, of whatever status, rank, condition, quality, or special eminence worthy of note and mention, and by apostolic letters, for a time or for life, and in any other way and for any reason whatsoever, whether in the form of a Brief or otherwise, granted by our predecessors, the Roman Pontiffs, or by others who have the faculty and authority to grant them (except those granted by ourselves through apostolic letters, even in the form of a Brief, or a chirograph signed by our own hand), the tenor of which are presented here as expressly stated and included, we revoke, annul, and abolish by this perpetual Constitution; and they are to be considered revoked, annulled, and of no effect, and no one shall be allowed to claim them."

After these things, the Supreme Congregation of the Holy Office was given the faculty to grant such licenses. "Nor shall any such licenses be granted henceforth, except by the Congregation of the Holy Office, while it is held weekly before Us, or by others specially appointed by Us within the same Congregation" (a).

After such revocation, neither Bishops, nor Cardinals, nor Inquisitors,

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nor Superiors General of Religious Orders, were able to grant anyone the faculty to read prohibited books.

(a) Bullar. XIV, 217-218. Taur. Ed. A similar Constitution was promulgated by Gregory XV; and it is found in Vol. XII, page 779.

[*Latin ed. p. 353*]

353 Letters from His Holiness, Pope Leo XIII, to the Ordinaries of the Campanian Province, and their response concerning the Institute established in Anagni. Although Our paternal charity ought to extend far and wide to encompass the entirety of the human race, nevertheless, because nature engenders a sense of affection for those regions in which each one first received the light of grace, it naturally happens that We embrace the Campanian province, which the Romans call Campania, with a more favorable will, since We are, in fact, connected to that nation. Moreover, recalling ancient memories, We see that province accustomed to flourish with a non-common reputation and fame; lacking in no eminent men in almost any age; and, indeed, so steadfast in maintaining religion that, under that name, it has not infrequently received weighty commendations from the Roman Pontiffs. Among the cities of Campania, Anagni is commended not only by the common praises of Campania, but also by its own domestic and particular virtues. For, besides its antiquity and its name, which is not unknown through the ages, We deem it worthy of note that the light of the Christian faith was received in that city most early, so that the first bishop who governed that city was, it is said, consecrated by the very Prince of the Apostles. — Other adornments have subsequently been added: among which is this singular one, that the Supreme Pontiffs, namely Innocent III and Gregory IX, were born in Anagni. Having considered all these things, and desiring that a lasting monument of Our benevolence and zeal exist in that city, which would be fruitful and salutary, and which would contribute to the preservation and promotion of the best studies, We resolved to establish a new institution there, carefully founded, for young men aspiring to the priesthood: We call them young men, though of greater age, who, with good character and intelligence, may more perfectly attain something through the study of the great arts and sciences, and also in the preparation of those virtues which must accompany a priest in all of life. Thus, We seem to be, as far as is in Us, beneficial, not for a short time, but in the hope of lasting benefit, not only for one order of clerics, but also for other citizens. For there is nothing that more strongly promotes the safety and prosperity of the public good than good morals and Christian studies of virtue: and to both of these, We strive, as far as it is in Us, to contribute.

[*Latin ed. p. 354*]

LETTER 354: It scarcely needs to be said how great is the importance of example and the works of the clergy. Therefore, it is of the utmost impor-

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tance for the Republic that those who aspire to the priesthood be instructed in the wise discipline of a virtuous life and diligent performance of the most sacred duties. Furthermore, they must add to the ornaments of the soul those things that pertain to intellect, namely, variety and abundance of knowledge. And this is, if ever, most necessary in our age; because, in such a rapid advancement of intellect, in such a desire for learning and knowledge, among men striving for daily refinement, the very dignity of the priesthood demands that those who are engaged in sacred duties be, and be considered, no less learned, authoritative, and esteemed than others. Moreover, we must contend for the integrity of the holy faith against adversaries who are most prepared, versatile, cunning, and often ingenious and learned, who are accustomed to borrow weapons from philosophy, from history, from the science of natural things, and from recent discoveries of men. But priests, who must bear the foremost part in this struggle, how can they be equal to the conflict unless they enter the arena with the same instruction and adornment? Therefore, they must devote themselves entirely to learning, and must not despise any art of human knowledge, but must have all of them as companions and assistants. For these reasons, we have taken care to erect spacious buildings in Anagni for these purposes, and we have dedicated them to the students of the sacred order, for the advancement of the best studies among the clergy, especially Philosophy and Theology: and this will be set forth in the laws that we shall write in these very letters. But in this our intention, whatever benefit and utility there may be, we wish that it may not be felt only by the Diocese of Anagni, but also by the neighboring regions. Therefore, we order that this abode of religion and the best studies be open equally to young men sent by the Bishops of Signia, Ferentina, Alatrina, Verulana, and also Terracina, which is also Priverna and Setia. Furthermore, we wish the neighboring Diocese of Fregella, which is called Pontem Curvum, to share in this benefit. Another fruit is also proposed to us. For it is most beneficial for the clergy to constantly seek solitude, so that they may devote themselves to meditations and to the sacred duties.

[*Latin ed. p. 355*]

LETTERS 355 may renew devotion; therefore, We have decided to grant greater opportunity for this purpose. Namely, after the students are dismissed during the autumn holidays, We desire that these buildings be available to priests who are dedicated to a life of piety and study, for that time. In the meantime, as a pledge and a testament to the divine favor and benevolence of Our own, We impart to you, Venerable Brothers, and to your clergy and people, Our Apostolic blessing in the Lord. Given at Rome, near St. Peter's, on the twentieth day of August, in the year one thousand eight hundred and ninety-seven, in the twentieth year of Our Pontificate. LEO XIII, POPE. Letters from Bishops to the Roman Pontiff. Most Blessed

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Father, It is scarcely possible to express how deeply we are united with you in spirit, and how gratefully we acknowledge the will of Your Providence. For nothing could be more desirable, nor indeed more fitting, than that the priests entrusted with the care of our dioceses should employ those who excel in piety, so that they may flourish in the pursuit of knowledge, which is especially necessary at this time for the proper and beneficial performance of sacred duties; and We see that you have satisfied these common desires of ours to an extent beyond our hopes, with the establishment of the Leonian Institute at Anagni, which has been dedicated today with solemn ceremonies. Indeed, the illustrious and most generous benefits with which you have enriched us confirm what was already known: namely, how devoted you are to the churches of Campania, and how actively you cherish the province that was the birthplace of your own. This new and most excellent honor bestowed by you is a testament to your enduring benevolence; and it will be a monument to your foresight, which you have wisely and generously foreseen, both for its establishment and for its preservation. Therefore, the thanks which we offer with a united and heartfelt spirit, may you, Most Blessed Father, graciously accept. And we, for our part, will strive to support your undertakings with all our ability, and to select young men who are worthy of being admitted to the Leonian Institute, in whom there is great hope, so that your efforts in the benefit of these dioceses may be crowned with the happiest results.

[*Latin ed. p. 356*]

356 LETTERS: To your feet, we humbly prostrate ourselves, and implore your most fervent Apostolic blessing upon us and all those entrusted to our care. Given at Anagni, in the buildings of the Leonian Institute, on the twenty-eighth of October, 1897. *f Antonius, Bishop of Anagni. f Petrus, Archbishop of Chalcedon, Apostolic Administrator of Ferentino. f Franciscus, Bishop of Alatri. f Paulus, Bishop of Verula. f Raphael, Bishop of Aquin, Sora, and Ponticorvo. f Paulus Aemilius, Bishop of Terracina, Priverna, and Setia. f Dominicus, Bishop of Ferentino. Iosephus, Parish Priest of Ramacci, for the General Chapter. EPIPSTOLARY ENCYCLICAL: From the Most Holy Lord, our Pope Leo XIII, to the Ordinaries of the federated states of Canada, concerning schools for children. We are pleased, and indeed most delighted, to acknowledge that the ancient and constant exchange of benevolence and the customary performance of duties between the Apostolic See and Canada spontaneously occur to our mind. The charity of the Catholic Church accompanies the very beginnings of your affairs; and having once embraced you in a maternal embrace, it has never ceased to cherish, benefit, and support you. Indeed, the immortal man Francis de Laval Montmorency, the first Bishop of Quebec, who accomplished such things of great merit for the public good, acted with the authority and grace of the Roman Pontiffs. Nor did other bishops, from whom such great merit

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arose, begin their endeavors except with the approval and mandate of the Apostolic See. And in a similar manner, if we consider the more ancient times, a generous host of apostolic men have always been accustomed to act, without exception, by the will and mandate of the Apostolic See, bringing the light of Christian wisdom.

[*Latin ed. p. 357*]

ENCYCLICAL LETTER 357, which has brought forth a more refined culture and the seeds of the most honorable arts. These seeds, having matured gradually through the labor of those very people, have brought the nation of Canadians into a competition of urbanity and glory with the most cultivated peoples, not late, nor unequally. — These things are all very pleasing to Us to remember: even more so, because we see the fruits of them remaining, and not insignificant. Indeed, the great love for the Catholic faith and the fervent zeal for the divine religion, which your ancestors first and foremost brought from France, then from Ireland, and soon after from elsewhere, and which they themselves piously cherished and handed down to posterity, inviolate, is truly a great thing. Although, if posterity remembers and protects this excellent heritage, we easily understand how much of this praise is rightfully claimed by your vigilance and efforts, venerable Brothers, and how much also by the diligence of your clergy: for all of you, with concordant minds, strive diligently for the safety and growth of the Catholic name, and this, as we truly confess, not against, nor in opposition to, the laws of the British Empire. Therefore, moved by the thought of your common good deeds, when We bestowed the honor of the purple upon the Archbishop of Quebec some years ago, We wished not only to adorn the virtues of that man, but also to honorably affect the piety of all Catholics there. — Furthermore, the Apostolic See has never ceased to labor in the early years of this age, in which both the Christian and civil republics flourish greatly, working together with you and with your predecessors. Hence, many institutions have been established throughout your lands, dedicated to the education of your youth in virtue and in letters, and above all, flourishing homes under the auspices and protection of the Church: in this regard, the great Lyceum of Quebec City stands out, which, adorned and increased in every legitimate way according to the customs of pontifical law, sufficiently testifies that there is nothing that the Apostolic See desires or strives for more earnestly than to cultivate the intelligence and virtue of citizens. Therefore, with the utmost care, as you yourselves will easily judge, we have turned our attention to those matters which the recent times have brought to the Catholic institution of the youth of Manitoba. For we want, and we must, strive with all our might and effort to ensure that faith and religion suffer no detriment among so many thousands of people,

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whose salvation is most entrusted to Us, especially in this regard.

[*Latin ed. p. 358*]

358 ENCYCLICAL LETTER: To the city which has received the fundamental elements of Christian doctrine no less than the initial foundations of human civilization from the Catholic Church. Since many were awaiting our opinion on this matter, and wished to know the path to follow and the manner in which to proceed, it seemed best to decide nothing until Our Apostolic Delegate had arrived concerning the present matter; who, having been instructed to diligently investigate the state of affairs and to report them to Us promptly, faithfully and diligently carried out what We had commanded. The cause, indeed, concerns a matter of great importance and weight. We wish to understand that seven years ago, the legislators of the Province of Manitoba, in their assembly concerning the education of children, decreed: that, although the laws of the Confederation of Canada had established that children of the Catholic profession should be educated and instructed in public schools, this right was being taken away. This law caused a considerable and harmful detriment. For where the Catholic religion is either neglected through ignorance or actively attacked, where its doctrine is suppressed and the principles from which it springs are rejected, it cannot be permissible for our young people to attend, for the sake of education. If the Church were to allow this, it would only be with great reluctance and necessity, and with many precautions, which, however, are often not sufficient to avert the dangers. Furthermore, that most deplorable and utterly to be avoided practice, which approves of whatever anyone wishes to believe, without any distinction, and holds that it is equally permissible, as if it made no difference whether one holds right or wrong opinions about God and divine matters, true or false. You know well, Venerable Brothers, that any system of education of this kind is condemned by the Church, because nothing can be more harmful than to undermine the integrity of the faith and to turn the tender minds of children away from the truth. Moreover, it is also something with which even those who disagree with us on other matters can readily agree: namely, that mere literary instruction, and a solitary and barren knowledge of virtue, cannot suffice to produce Catholic students who will become the kind of citizens that the country desires and expects. It is necessary to impart to them more serious and greater things, so that they may become good Christians and virtuous and upright citizens; namely, they must be instructed in those very principles which must be deeply rooted in their minds, and by which they must be guided to know what they must obey and follow, because they spontaneously spring forth from faith and religion. There is no education...

[*Latin ed. p. 359*]

ENCYCLICAL LETTER 359, worthy of this name and effective, even

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without regard to religion. For the form and power of all institutions are derived from those institutions which most closely connect man to God, who commands, forbids, and sanctions good and evil. Therefore, to wish to instill good morals in souls while simultaneously allowing them to be ignorant of religion is as absurd as calling someone to acquire virtue while removing the foundation of virtue. However, for the Catholic man, there is only one true religion: the Catholic religion; therefore, he cannot, nor can he accept or acknowledge any moral teachings or doctrines, unless they are sought from and derived from the innermost wisdom of the Catholic faith. Therefore, justice and reason demand that schools not only provide students with knowledge of letters, but also with that knowledge of morals, closely linked with precepts about our religion, without which, indeed, no institution can be fruitful, but rather will be utterly harmful. From this, it necessarily follows that teachers must be Catholics; that books to be read and studied should be those approved by the bishops, and not others; that there must be full freedom to establish and govern all disciplines, so that the entire process of teaching and learning is perfectly consistent and in harmony with the profession of the Catholic name and with the duties that flow from it. Furthermore, it greatly concerns the authority of the state to see how each of its citizens, among whom institutions are established, are educated, and who their guides in life are. Therefore, when Catholics, and it is their duty to will and strive for this, desire that the education of their children be adapted to their religion, they are acting justly. Nor can anything be done with them that is more unjust, than to force them to choose between one thing or another, or to subject them to uneducated and ignorant individuals, who are raised, grow up, or are exposed to the most important matters of life. These principles of judgment and action, which are based on truth and justice, and which contain the well-being of both individuals and the state, it is sacrilege to question or abandon in any way. Therefore, when the customary law regarding the education of Catholic children was violated in the Province of Manitoba, it was your duty, venerable brothers, to openly refute this injustice and harm. You have performed this duty so well that the common vigilance of all and the worthy will of the bishops have shone forth. And although each of you is commended by the testimony of your conscience on this matter, we nevertheless give our assent and approval.

[*Latin ed. p. 360*]

360 ENCYCLICAL LETTER: For those things which you have striven to preserve and protect, are most holy, and you must continue to strive. Furthermore, the inconveniences of the Manitoba law, of which we are speaking, of themselves indicated that it was necessary to seek a suitable remedy to correct this evil. It was a worthy cause for Catholics, for which all citizens of good will, from all factions, ought to strive together with

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the utmost unity and cooperation of intentions. This, however, has been the case, to a great extent, contrary to what ought to have been. It is also regrettable that the Catholics of Canada themselves, as they ought to have done, have not unanimously expressed their opinions on the matter at hand, which is of the greatest importance to all: for the magnitude and weight of this matter demanded that all considerations of political expediency be set aside. We are not unaware that some amendments to that law have been attempted. Those who govern the United States and the Provinces have already decreed some measures to mitigate the inconveniences, about which the Catholics of Manitoba justly complain. We do not doubt that this was undertaken with a love of justice and a commendable intention. However, it cannot be concealed that the law, which was intended to alleviate the damages, is deficient, unsuitable, and inadequate. The requests of the Catholics are much greater, and no one can deny that they are justly entitled to make them. Moreover, even in those remedies that have been devised, there is a flaw, which, under changed circumstances, may easily render them ineffective. In short, the rights of Catholics and the education of children have not yet been adequately considered in Manitoba; and it is necessary, and in accordance with justice, that all parties be consulted, namely, that all those safeguards and protections, which we have mentioned above, be established, in immutable and most august principles. This is what must be considered, and it must be sought diligently and prudently. To this end, nothing can be more detrimental than discord; unity of spirit and a certain harmony of action are absolutely necessary. But since the path to achieving what is proposed and what ought to be is not a single, certain, and defined way, but rather a complex one, as is often the case in matters of this kind, it follows that there may be various honest and equally beneficial opinions regarding the method of action. Therefore, let all, both individually and collectively, remember modesty, gentleness, and charity; let them take care not to offend in any way against the respect that is due to one another; let them consider what the circumstances demand, and what appears to be best in practice.

[*Latin ed. p. 361*]

With fraternal unanimity, and not without your counsel, they shall establish and ensure these things. Concerning the Catholics of Manitoba in particular, whom we trust, with God's help, will one day be fully committed to this cause. This hope rests first of all on the very goodness of the cause itself; then on the equity and prudence of those who govern the state; and finally, on the honest intentions of as many Canadians as follow the path of righteousness. Meanwhile, however, as long as they are unable to fully defend their reasons, let them not refuse to make some concessions, preserving themselves in part. Therefore, if something is granted by law, or

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custom, or through the leniency of men, which makes the damages more tolerable and the dangers more remote, it is certainly expedient and beneficial to make use of these concessions, and to derive the greatest possible benefit and utility from them. Where, however, there is no other way to remedy the inconveniences, we urge and implore them to continue to act with increased generosity and benevolence. They cannot better merit their own salvation, nor the prosperity of the provinces, than by contributing to the protection of Catholic schools, as much as their means allow. There is also another matter of great importance in which your common effort is needed. It is incumbent upon you, as authors, and upon those who are in charge of the schools, to carefully and wisely establish the order of studies, and above all, to ensure that those who come to teach are thoroughly instructed, both in knowledge and in the art of teaching. For it is fitting that Catholic schools should strive to excel among the most flourishing in the cultivation of talents, in the praise of literature, and in all that is excellent. If education and the dignity of humanity are sought, it is certainly a worthy and noble goal for the Canadian provinces to strive to promote and foster, as far as their strength allows, the public institutions of learning, so that something better and more perfect may be achieved each day. But there is no branch of knowledge, no elegance of doctrine, which cannot perfectly harmonize with Catholic doctrine and instruction. To illustrate and defend all these things that have been said, those Catholics can be of great help who are engaged in writing, especially in daily publications. Let them therefore remember their duty. Let them defend with religious zeal and a generous spirit those things that are true, that are right, and that are useful to the Christian name and to the public good; but let them do so with decorum, with obedience to those in authority, and without exceeding the bounds in any matter. Let them fear and...

[*Latin ed. p. 362*]

362 ENCYCLICAL LETTER: We earnestly urge the bishops to observe the authority of the Holy See and all legitimate power. Moreover, as the difficulties of these times increase, and as the danger of divisions becomes more imminent, we insist with greater zeal on promoting concord in sentiments and actions, without which there is scarcely any, or indeed hardly any, hope that what is desired by all of us may be achieved. Receive as a pledge of the benevolence of heavenly gifts and of Our paternal favor, the Apostolic Blessing which We impart to you, venerable Brothers, and to your clergy and people, with heartfelt affection in the Lord. Given in Rome, at St. Peter's, on this eighth day of December, in the year 1897, the twentieth year of Our Pontificate. LEO XIII. BY THE SPECIAL AUTHORITY OF THE MOST HOLY FATHER, Pope Leo XIII, by which the Benedictine Order is entrusted with the administration of the Athanasian College; which is located in Rome and is dedicated to the education of Greek youth for the

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Sacred Studies. We have, with a benevolent and loving heart, testified in recent years to the Order of Benedictine Monks, whom We have received into Our trust and affection, when We established the Collegium Anselmianum on the Aventine Hill. We rejoice in this work, and we see that it is already bearing excellent fruit, by which the Order itself is certainly urged to be restored to its former glory and its ancient praises. Now, We wish to offer another testimony of Our efforts in favor of the Benedictine Family and of Our more devoted will: We have decided to entrust the administration and governance of the Athanasian College, which is open in the City for the education of Greek youth for the Sacred Studies. Indeed, this College, to which Our predecessor, Gregory XIII, looking with great concern to the benefit of the Eastern Churches, gave spacious quarters in a noble part of the City, draws Our attention, because it is most closely in accord with the aims which We have long held and pursued for the benefit of those same Churches. For, while We have always vigorously striven for the good of the Orient, We place our hope in both its ancient greatness and in the union of those who are divided with Rome.

[*Latin ed. p. 363*]

MOTU PROPRIO 363. It is of the greatest importance that those young men who are destined for the priesthood from among the Greeks be thoroughly instructed in the doctrines of the sacred religion, and that we either strengthen the bond of communion with us, or encourage its beginning, and that they draw from the very fountain of Catholic truth, and become accustomed to venerating the center of unity, which has been divinely established in the Apostolic See, before it and with reverence. Therefore, since we entrust this work to the Benedictine Order, which we highly commend to you, we demonstrate the trust we have in their diligence. Moreover, in order to better promote the unity of the Benedictine Order, we have decided that a Primus should be appointed to preside over it, and we have ordered that he shall have his seat permanently in Rome. We grant to this Primus, whenever he may be, the administration of the Greek College, by a special mandate from Us, and in Our name and in the name of Our successors, subject to the will of the Apostolic See and to the laws which are written below.

I. The buildings of the College, which Our predecessor Gregory XIII founded, as well as the goods that have been given and assigned to the College, shall perpetually belong to the Roman Pontiffs.

II. The Primus shall propose a rector to preside over the College; the right of election being reserved to the Supreme Pontiff. The other monks who are added to the College shall be appointed by the Primus.

III. The rector shall have the power to admit students and to expel those who are unruly or unteachable, with the knowledge and consent of the Primus.

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IV. The monks shall take care to apply themselves to the discipline of the students, to perform the office of teaching, and to cultivate in the young men the virtues and morals that are fitting for the priesthood.

V. All the students, without exception, whether those who are engaged in studies of letters, or those who are occupied with philosophical and theological disciplines, shall attend the schools of the Urbanian College.

VI. If any of the newly admitted students are not able to regularly attend the Urbanian schools, a teacher shall be present in the College to instruct them, so that they may be prepared for greater things. Furthermore, monks shall be designated to assist the students in privately reviewing what they have heard in the public schools. Also, there shall be established those who will take care to exercise the same students daily in the liturgy, in patrology, in ecclesiastical law, as it is practiced among the Greeks, and finally in the Greek language, both ancient and modern.

VII. The sacred vessels, both those in the common sacristy of the students, and those...

[*Latin ed. p. 364*]

364 BY PAPAL BULL, whether at home or in the countryside, or those things which are done in the Athanasian church, may only be performed according to the Greek rite and language. We grant this to the monks devoted to this rite. VII. The Abbot Primate shall annually submit to Us, through a written report, concerning the discipline of the students, the studies, and the economic affairs; a copy of this report shall be sent to the Cardinal Prefect of the Sacred Congregation for propagating the Christian faith. Given in Rome, at St. Peter's, on the 15th of December, in the twentieth year of Our Pontificate. LEO XIII, POPE. FROM THE SACRED CONGREGATION OF THE COUNCIL — ABELLINE. MARRIAGES. August 21, 1897. Session 24, chapter 5, concerning the validity of marriages. SUMMARY OF THE CASE. On June 2, 1882, Evelina, born in Venice in the year 1864, in the town of Prata, where she apparently resided with her mother, was lawfully married to the Honorable Stanislaus. This marriage, begun with an ill omen, proved to be most miserable. Indeed, the bride, who, it is said, greatly disliked the groom, entered into the marriage with a resentful spirit, having been forced by her mother, who strongly desired this marriage, in order to show her gratitude to the groom for favors received. After the wedding ceremonies were completed, the couple went to Naples; and, if their statements are to be believed, the wife refused to consummate the marriage on the first night, and even refused to sleep with her husband. Later, after repeated urgings from her husband, further attempts were made, but the spouses assert that all of these attempts were always unsuccessful. Regarding this matter, in

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addition to the...

[*Latin ed. p. 365*]

ABELLINEN. 565. The repugnance [of the woman] appeared to have been the cause, because the woman, being afflicted with vaginismus, was not equal to fulfilling the duties of marriage. Furthermore, after four years had passed, the spouses, having been informed of the impossibility of leading, in this way, a conjugal life, were, with mutual consent, separated by a favorable judgment from the civil tribunal of Benevento, so that conjugal life would not be restored. In the meantime, Evelina left Italy and went to foreign lands. While residing in the city of Sarajevo, for some time she was treated for the vaginismus with which she suffered, by a certain doctor of that city; and this fact is attested to by the doctor himself. Furthermore, in the year 1894, Evelina returned to Italy and, in this unhappy condition, made an appeal to the Holy See, earnestly demanding that her marriage be declared null, due to coercion and fear; or at least that a dispensation be granted from a valid and unconsummated marriage. The Neapolitan Curia was delegated to carry out the process concerning the alleged nullity and lack of consummation. After the tribunal was constituted, the spouses were questioned; witnesses of the seventh hand, both of the man and of the woman, were questioned, among whom the testimony of the actress's mother is particularly noteworthy. At the order of the tribunal, the woman's body was examined by several doctors, who, although they affirm that she is affected by vaginismus, nevertheless found some lesion in the hymen.

Disputatio Synoptica. OPINION OF THE THEOLOGIAN. Asked for his opinion, he said: The following seem to me to be important considerations regarding the two questions that are usually proposed: I. Whether the nullity of the marriage can be established in this case; and, to the extent that it is negative: II. Whether it is advisable to request the Most Holy [Father] for a dispensation from a valid and unconsummated marriage.

[*Latin ed. p. 366*]

366 ABELLINEN. Concerning the first doubt: it seems to me that a negative response should be given. Indeed, it is beyond dispute that a reverential fear can invalidate marriage; however, the Doctors state "provided that threats or beatings, or some other serious fear, are added to it" (Sánchez, I, IV, disputation VI, number 7), or at least, as the same Doctor adds in chapter 14, number 1, the son fears "that the indignation will be long-lasting and that he will always have... a father who is very angry and indignant, and who will constantly reproach him for that disobedience." The Doctors generally agree with Sánchez, and this is also the practice of this Sacred Congregation. However, when the fear is an internal one, so that it can only be known from its external manifestations, the recourse to prove the existence

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of the fear is generally to the circumstances that either preceded, accompanied, or followed the marriage. Indeed, in the present case, beginning with the circumstances that followed the marriage, it does not seem that anything can be concluded from them to prove the existence of fear. And indeed; 1. When investigating according to the procedure of the Sacred Congregation, the Sacred Office to the Eastern Patriarchs in matrimonial cases: "whether she freely and without opposition presented herself for the matrimonial duties, or whether she opposed them"; although from the testimony of the spouses themselves, and even from the testimony of other witnesses heard by them, it is certain that the woman opposed the matrimonial duties, nevertheless, the cause of this resistance must be attributed to the illness in which the woman suffers; and this same cause must be attributed to the subsequent personal separation, as the husband stated. 2. Furthermore, it should be noted that the circumstance, which seems difficult to reconcile with fear, is that the woman, after being separated from her husband, submitted herself to special care, in order to be cured of vaginismus, and thus to make herself fit to perform the matrimonial duties. Finally, coming to the circumstances that preceded the celebration of the marriage, it can certainly be concluded that...

[*Latin ed. p. 367*]

ABELLINEN. 367. It cannot certainly be concluded that the marriage, at least in part from the woman's side, was not contracted from a disposition and affection, which are necessary for a happy marriage; nor can it certainly be concluded that the marriage was contracted under such a fear that it renders the marriage null. Regarding the second doubt, it seems to me that the answer should be: it is not sufficiently established that there was a lack of consummation. Regarding the existence of causes for requesting a dispensation, there can be no question. It is evident from the entire process that there was antipathy and a separation of souls; as well as, at least on the part of Evelina, some difficulty in performing the marital duties, as testified by the doctor of Novi. Therefore, the entire question is reduced to proving the lack of consummation. Furthermore, the lack of consummation is usually proven by three types of arguments: 1° an argument, so to speak, metaphysical, derived from the absolute impossibility of the spouses ever being able to agree; 2° a physical argument, derived from certain indications of a lack of consummation, after an examination of the woman's body; 3° a moral argument, which consists in the sworn testimony of the spouses, corroborated by the testimony of seven witnesses, as well as other supporting evidence and presumptions. However, in our case, it cannot be appealed to the first argument, since the spouses lived together for a period of four years; therefore, recourse must be had to the physical and moral arguments. Now, regarding the physical argument, it seems that, based on the testimonies of experts, it can only be concluded that

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the woman was certainly corrupted, but the cause of the corruption was, according to the opinion of some doctors, probably not carnal intercourse, but rather a so-called "massage," to which the woman is said to have been subjected. Regarding the moral argument, the husband certainly testified under oath that the marriage was not consummated, but he added some things that diminish the effectiveness of his testimony.

[*Latin ed. p. 368*]

368 ABBELLINEN. The woman, however, did not explicitly or directly state anything about a lack of consummation, and her testimony, based on what the same woman recounts, does not seem to deserve much attention, at least due to a lack of knowledge. Therefore, since it appears that, based on physical and moral arguments, a conclusion about the lack of consummation can only be reached, not with certainty, but only probably, regarding this doubtful matter, it seems to me that the answer should be: it does not sufficiently appear that there was a lack of consummation. OPINION OF A CANONIST. Remembering the words found in the Supreme Universal Instruction of June 10, 1885, "marriage is always presumed to be valid, unless evident reasons demonstrate its nullity," I humbly submit my opinion, says the canonist. Was there a lack of consent in the marriage between Stanislaus and Evelina? I spontaneously confess. I have often labored under a rash judgment while examining this case. All the witnesses concur in demonstrating the severity of the lady mother towards her daughters, and in exaggerating Evelina's repugnance to marrying Stanislaus, without remembering the hospitality that was shown to the bridegroom for several weeks before the wedding, near Evelina's room, where she served as a humble servant to the future bridegroom, far from the eyes of her mother, who, although the best, nevertheless put her daughter in danger. How can it be reconciled that the daughters lived as if cloistered, and yet undertook several long journeys without a chaperone? Evelina abhorred the future bridegroom, and during his visits, she fulfilled all the proprieties that young girls usually observe with young men. But let us move on to other matters. The sacrament of marriage, which is perfected by mutual consent, that is, by a mutual will, not only internally, but also externally expressed by assent, must be celebrated with the greatest freedom. Human will is free in itself. A man is not coerced or compelled to act if he lacks understanding, nor is he forced into an action. The mind is the primary mover, and its light inclines or opposes the will. Even if a man were in the abyss or in the depths of the sea, he is always...

[*Latin ed. p. 369*]

ABELLINEN. 369. With his heart, he said "yes" or "no." Under the penalty of the two-fold curse, the undaunted martyrs refused to yield to the tyrant. The will is essentially free, and the mistress of all its actions. No

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force can physically bend it, or compel it to perform any action. But it is one thing for the will to be free in its essence, and another thing for it to be in a state of free choice. With regard to free will concerning its essence, it is in the power of free choice. When the will is bent towards something, or repels something, it is in the act of choice, and by inclining or resisting, it elicits an act of perfect freedom. Sometimes, it is morally influenced by the mind: either the mind, being deceived, causes an act of the will to be the effect of that deception. Hence, it chooses what, when agitated by sad phantasms, it would not choose in other circumstances, free from such phantasms or previsions. This foresight, derived from reasoning, is a certain force. But because it suggests in the affections, so that the will is in some way affected, it is said to be a passion. The foresight of evil, strongly agitating and twisting the will, weakens the power of freedom, and therefore of the will; so that it wills what it would never have willed spontaneously. As if choosing the lesser evil; and it desires because it is drawn by the apparent form of a small good. Therefore, both error and fear are hindering impediments to the sacred contract, since error is a substantial impediment, and fear of a grave evil is a diminution of freedom. What we say about fear must always be understood as referring to the fear of a grave evil, impressed from without, and for a just, not unjust, cause. The forces of free will, and those forces that are attacked by another powerful force, such as the fear of a certain and future grave evil, are not destroyed, but diminished. But a slight foresight of evil is not so; but is pressed down and overcome by the forces of the will. However, in the supplicatory document given to the judges of this Order, and as is deduced from the process, we are dealing here with reverential fear, from which the spouses claim to have lacked consent. What is defined in law concerning marital consent? Innocent II says: "When fear and coercion intervene, there is no act." (Acta, Tom. XXX, fase. CCCL1V. 24).

[*Latin ed. p. 370*]

370. ABELLINEN. It is necessary that, where the consent of someone is required, the matter of coercion be considered. The intention of the spouse must be investigated, lest he say that he consents to something he hates, so that consequences may not follow, which are wont to arise from marriages entered into unwillingly. By coercion, here, is understood that which destroys freedom of action. For he who is coerced is not the primary and principal agent. If he suffers violence, he is not an agent but a patient; he is an instrument in the hand of another agent, not acting according to his own will, but according to the will of another; the act proceeds from force and the will of an external agent. Moral force, however, is the attraction of the will, but it is not the will itself which draws the object of desire towards itself from another subject, which truly desires to unite the object of desire with the will of another. Fear, on the other hand, refers to an evil

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imminent to oneself, not to others. But reverential fear refers to a slight evil imminent to a superior, such as grief of heart, or the fear of being held in contempt. Hence, in law, there is no mention of reverential fear; St. Alphonsus, Doctor of the Church, writing about reverential fear, says: "It is that by which one fears to resist him to whom one is subject." Many, along with St. Alphonsus, among whom are Sánchez and others whom he cites, believe that reverential fear does not invalidate marriage. This is found in the law (Interpositus, Cap. de trans, it must be proven that there was a danger to salvation or torments) and such fear may befall him. Pontius adds that reverential fear can be said to be grave if there are threats of a grave evil, and the one threatening, with his cruel intent, certainly can and does intend to bring about his threats. Therefore, Pontius concludes that pure reverential fear, without apprehension of another's grave evil, is not fear, but rather a certain shame which does not proceed from an external source, but rather from an internal one. St. Thomas presents reasons why the nullity of marriage resulting from grave fear arises, and why the validity of marriage is confirmed in reverential fear. For he himself says: "The matrimonial bond is perpetual, therefore that which is perpetually invalid destroys marriage; but fear which falls upon a steadfast man, which alone should be called grave, destroys..."

[*Latin ed. p. 371*]

ABELLINEN. 371. The perpetuity of the contract, because fear of this kind can lead to a complete annulment, and therefore, this coercion by fear which falls upon a steadfast man destroys the marriage, and nothing else. Reverential fear does not affect a steadfast man, because it is slight and therefore does not touch the contract, and therefore does not dissolve the contract, nor can it lead to a complete annulment, and therefore the marriage is not dissolved. St. Thomas follows: "Marriage is a perpetual bond," according to Matthew: "For this cause shall a man leave his father and mother: and shall cleave to his wife. And they shall be two in one flesh." Therefore, when marriage is contracted out of fear, it must be understood that there is no true consent from oneself, otherwise, mutual love cannot exist with fear. "For no one is wont to cleave to him whom he holds unwillingly." But reverential fear, besides being slight, does not truly produce fear in the person when it comes to a young woman, whether it is through fear, threats, or reprimands. It is not even the slightest fear, but rather a certain wounded reverence, in that the inferior does not adhere to the will of the superior. The displeasure of the superior is not a grave evil, nor does it affect the inferior, but rather the superior in the slightest degree. Therefore, I do not understand why something that is a perpetual bond should be annulled because of a minor and temporary defect, which is not unjustly observed in an act so free. Rather, it should be said that it is not well done by him who forces marriage with any kind of coercion, and who abuses

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his authority, with contempt for the freedom of the other. Furthermore, when words of consent are spontaneously pronounced, and no signs of fear or resistance are given, they are presumed to be sincerely and freely expressed in the celebration of the marriage. The priest who, in place of the parish priest, officiated at the marriage of Evelina indicated nothing about this in the testimony that he gave; how, then, is it asserted that she lacked consent? Where are the indications? These rather contradict the assertion. When Evelina was lying ill in Neapoli, her brother said to her: "This would be the opportune moment to break all ties." Why did Evelina not want to do this? She was still a young woman, and truly she was performing service for...

[*Latin ed. p. 372*]

572 ABELLINEN. Did she, in those many weeks when Stanislaus was her guest and resided near her chamber, consummate her marriage? If she hated her husband, why did she not resign this office to her sister? About what did she speak the entire day with her husband? If, immediately after the marriage, Evelina was afflicted with a slight fainting spell, no one present noticed, and she recovered after a brief conversation with her mother. What was so miraculous about the mother's conversation? Two witnesses testified concerning the marriage. Aloysius Baccari said: "I can only assure that in the early times following the marriage, they led a refined and aristocratic life, and in general, their behavior suggested that they were in harmony and were, indeed, a happy couple. Later, there was talk in the city of disturbances arising between them, and it was also said that one or the other was not suited for the marital relationship." Evelina's mother proposed the marriage to Stanislaus, and she did so because she hoped for his wealth, telling Evelina that her future husband was rich and kind of heart. Was it not the case that the husband led a refined and aristocratic life with her? Another witness, Joseph Cerrotti: "After Stanislaus left the college, orphaned of his father and mother, he indulged in pleasures, and among other follies, he committed the absurdity of marrying Lady Evelina with such levity as to surprise everyone." If she did not wish to contract the marriage, had she not prolonged the matter for a very long time? It could not be that she was both elegant and aristocratic, and also afflicted with boredom, and repulsed by the idea of cohabiting with Stanislaus. The very acts of Stanislaus's prodigality towards his bride suggest a prior affection that was consummated with the seal of marriage. She never responded with open words, negatively, when her husband questioned her as to whether she loved him, nor did she reveal her heart to any relative or friend. When Evelina's mother proposed the marriage, the girl was young, and she did not know if Stanislaus was virtuous, nor had she experienced his character, nor had she reproached him! She did not praise his beauty,

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nor did she...

[*Latin ed. p. 373*]

ABELLINEN. 373. He testified concerning her deformity. By what reason was there agreement or disagreement? Regarding the consummation, the consultant stated that, since the physicians omitted the examination relating to the body of Stanislai, no certain criterion could be given to determine whether the marriage of Evelina with Stanislai had been ratified, and not consummated. Indeed, the examination of the man could have determined whether the impotence was attributable to the woman or to the man, and an easy way would have been opened for determining the validity or nullity of the marriage (as in the matter at hand) on account of the impotence. Despite all these difficulties, and notwithstanding the examination of the physicians at Orte, I shall plainly state what I believe. The physicians did not judge the origin of the illness, nor the diagnosis of it, nor its curability or incurability; moreover, they did not determine whether Evelina had been afflicted by such an illness before or after the marriage, but they were swayed by uncertainties. All of these things are found by reading the depositions of the doctors in the process. From so many doubts, we are certain that Evelina suffers from a disease called vaginismus, which is difficult to cure, is surrounded by pains, appears to be pre-existing, and, because it is incurable, should be considered permanent. But is the woman to be considered fit to perform the marital act due to her husband? On this matter, our discourse will be guided by the opinions of the writers. Perhaps Evelina suffered from vaginismus, but I am not certain. The opinion of this kind is strengthened by the testimony of the witness Matildes Locapio. What reason could have inclined the judges to annul the marriage, unless it was impotence? Did the woman's impotence consist in vaginismus? Does this impotence prevent the man from having intercourse? Were the terrible pains certain signs of vaginismus? Did the very remedy that the doctor found, namely, massage, indicate the disease of vaginismus? But there are other doubts that arise from the testimonies, as in the process: Evelina hated her husband because he brought more young men into her house, and afterwards he went out, leaving her alone with the young men locked inside.

[*Latin ed. p. 374*]

374 ABELLINEN. The husband, especially on days when they were particularly affected by merriment, perhaps truly believed that Stanislaus was impotent, and that the pains, lamentations, and cries were lies; perhaps he was exposing himself to the danger of fornication; but if the sin occurred with Evelina, it would be a disgrace to the husband. However, it was possible that Stanislaus, due to the gradual conformity of the young woman, might have had intercourse with Evelina, subsequently conceiving, and

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the child would then be avenged upon the adulterous young man. Furthermore, there were many disagreements in which Evelina's mother was present and imposed her authority upon them. From the context, it appears that the origin of these conflicts was zeal, and that Evelina was troubled by her husband; otherwise, it would not be necessary to call her mother to mediate, but rather to provide a remedy. However, the pains ceased only with the intervention of the mother in the disagreements. Therefore, it was not the pains, but other causes, that produced the quarrels. Those who desire to discover the truth, seeking to penetrate what is hidden beneath certain circumstances and involved among appearances and probabilities that sometimes contradict each other, must subject their own opinions to scrutiny. Either Stanislaus is unfit for marriage, or Evelina is unfit for intercourse. This was the dilemma of the public, when, after a life of aristocratic elegance, quarrels and discord arose in Orte. Witnesses judged in this kind of process that the instrument was solid, namely, the *massaggio*, which is nothing but the hand of a man. For the Italian doctor, for one year, continuously touched the woman's genital organs in order to dilate them to make intercourse easier, and Evelina affirmed that her health had improved. Despite the observations and arguments, it was permissible for expert doctors to conclude, either in the affirmative or in the negative, without certainty regarding the matter; but the doubt persisted. There is one witness who, with some conjecture, may indicate a disease of Evelina, namely, vaginismus. If expert doctors concluded, while doubting, whether this marriage would be permanently hindered, then let me also be allowed to deliberate and investigate among the doubts.

[*Latin ed. p. 375*]

ABELLINEN. 375. Over a period of years, and for several months, the surgeon dilated the bride's vagina, and we have no doubt that she was exposed to the danger of death. But concerning these matters, the hymen, torn in three places, was never the same, nothing was replicated, and no evidence was found that could corroborate the opinion of a complete consummation. Three wounds were found in the hymen, but only in three different locations. The fingers do not have a single, unique movement. They may have had it, but carefully, and yet, due to the circumstances, or the direction of the weak or the doctor, it may have changed. For example: If the man is impotent, he may insert into the vagina the member that remains after the seed has been ejected, not only restraining the ejaculation but also hastening the introduction of the member. This refers to the man, and in such circumstances, Evelina's pains were the pains of another subjected. They irritated the ovaries, moving them irregularly, and indeed, they inflamed them, and we do not know what nature of exudate resulted. The expert doctors testify that Stanislaus inserted his member into the vagina: Stanislaus, accustomed to cohabiting with prostitutes in a manner that was

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not permitted, did indeed insert his member in this way, but it seems to me that he did not have a perfect, complete, and fully satisfying union, but rather one such that no offspring could emerge. Finally, in this second question of the present matter, concerning the validity of the marriage bond, it seems to me that the following must be resolved: Unless the man is first examined, nothing can be defined. If the man is completely impotent, recourse must be had to the Supreme Seat. If, however, the woman is afflicted with an incurable infirmity, as has been the case thus far, and, after having employed remedies that lead more to death than to health, and if the woman has not been afflicted with this infirmity after the marriage, then the spouses should approach the Apostolic Seat for a dispensation; if, however, it has already occurred, then the marriage must stand. Regarding the first question, regarding, that is, the alleged consent obtained through reverential fear, I affirm that the marriage was valid.

[*Latin ed. p. 376*]

376. ABELLINEN. OBSERVATIONS OF THE DEFENDER OF MARRIAGE ARISING FROM THE RECORD. The gentleman, Stanislaus, and the lady, Evelina, who entered into the marriage bond on June 22, 1882, he being 22 years of age and she 18, now seek to dissolve it, alleging a) that Evelina was induced to enter into the marriage through a fear inspired by her mother, and b) that the marriage has not been consummated. However, their arguments are unconvincing. For, with regard to the first point, the allegation of fear is a matter of fact; and therefore, it must be proven through evidence. Indeed, not a single fact appears in the records that demonstrates the presence of a grave, or reverential, fear, possessing the necessary conditions, that would invalidate the marriage. Moreover, the parish priest who joined Stanislaus and Evelina in marriage, entered the following in the parish register: "I further testify that the aforementioned entered into and celebrated the marriage with mutual love and perfect freedom." As for the alleged lack of consummation of the marriage, it is more than sufficient to note that there is no evidence of either the husband's impotence or the wife's. Furthermore, of all the physicians who examined Evelina's body, none, not even the learned Doctor Johannes Pamlikoff, whose testimony Evelina presents at the last moment, attest to Evelina's physical virginity. With these observations in mind, the following questions were proposed for consideration: I. Whether there is proof of the nullity of the marriage in this case. And, if the answer is negative: II. Whether it is necessary to petition the Most Holy See for a dispensation from a valid, but unconsummated, marriage. RESOLUTION. After deliberation by the Sacred Congregation on August 21, 1897, it was decided to respond as follows: To I. Negatively. To II. Based on the evidence

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presented, it does not appear that the marriage was unconsummated.

[*Latin ed. p. 377*]

377 BONONIA. REGARDING A MARRIAGE DISPENSATION. May 8, 1897. Session 24, chapter 5, Concerning Matrimonial Impediments. SUMMARY OF THE CASE. Maria Christina, a young woman of 20 years, having observed the Tridentine form, was joined in marriage to Francisco, aged 24, on April 26, 1880, in the Cathedral Church of Forlì. The marriage proved most unfortunate, especially for Christina, for it appears that her husband suffered from an impediment to consummation. For this reason, he was never able, as he himself now asserts, to fulfill the duties of a husband during the entire period of their cohabitation, although he left nothing undone in an effort to acquire virility. Although, due to this most miserable situation, the woman suffered from poor health, and was repeatedly urged by many to seek the dissolution of her marriage, she was content to remain in the marital bed, with the consent of her husband. However, as time passed and no further hope arose for Christina regarding her husband's ability to consummate the marriage, and furthermore, as she reports, the suffering and annoyance of herself, her parents, and her family were increased, she finally decided to seek a solution to the marriage. Therefore, at the beginning of September of the year 1895, she left Francisco, and went to live with her mother in Forlì; and in the same month, she addressed prayers to the Supreme Pontiff, requesting that he benignly grant her a dispensation from her marriage, which had never been consummated due to the impotence of her husband. The Archbishop of Bononia, to whom the prayers were sent by the Sacred Congregation, arranged for a process to be carried out through a delegated judge, and, having transmitted the proceedings to Rome, he informed the Sacred Congregation that: "Both the plaintiff and Francisco are known to be of religious, pious, and honorable character."

[*Latin ed. p. 378*]

378. "BONONIEN. the manner in which [he] is to be commended, and all the witnesses who were examined, without exception, fully deserve to be believed, both for their personal qualities and for the good reputation they enjoy among all; and the physicians who appeared as witnesses in the cause are among the most distinguished in this city for their knowledge." And further, he says: "Since, in my judgment, there remains no doubt concerning the non-consummation of this marriage, and it seems impossible that the minds of these spouses, and of their parents, will be reconciled, I may add my prayers to those which the Actress, as she herself has done and which she now renews through me, namely, that if this marriage cannot be dissolved on the grounds of absolute impotence of the man, that the Most Holy [See] may be consulted for a dispensation on the grounds of a

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marriage ratified but not consummated, and while I hope that this may be obtained, I consider it my duty also to inform this Holy Congregation that there is no reason to be surprised if this marriage is dissolved, since both habitual weakness and a recent infirmity of the same Francis have been clearly demonstrated."

Disputation. SYNOPSIS. DEFENSE OF THE WOMAN. The advocate, speaking of the non-consummation, previously maintained that this was proven by the sworn testimony of the woman. For she herself responds to the Judge: "I am certain that my marriage with Francis has not been consummated in any way." And she affirmed this under oath, attributing the cause to the ineptitude of Francis. But, according to the advocate, this affirmation of the woman is all the more to be considered, because not even the man dares to contradict it, although he suffers very greatly from the cause promoted by his wife. Indeed, when urgently questioned by the Judge as to whether he had consummated his marriage with Christina, he immediately responded: "Indeed, I have made all efforts, but I cannot affirm with certain proof whether it has truly been consummated." But such ignorance concerning the consummation of his own marriage on the part of Francis is an open confession of non-consummation.

[*Latin ed. p. 379*]

BONONIA. 379. Furthermore, he argues that, according to the teaching of the canons and the practice of the Sacred Congregation, how much weight should be given to the testimony of a woman, especially when, as in this case, the woman in question possesses exceptional virtue and piety. The witnesses of the seventh class, all produced by the same party, testify to this, and unanimously declare not only that they have a moral conviction that the woman is telling the truth, but also that they have learned, at a time not suspected, that the marriage was not consummated. In this case, the advocate affirms that there is no need to call witnesses, since there is an irrefutable physical argument of virginity, as can be seen in the testimony of Anthony Capurri, who had examined Christina outside of a judicial setting. This is corroborated by the physician Joseph Ravaglia, and also by Aloysius Rodolfi and Frederick Fabbri. Furthermore, these testimonies of the physicians are strongly confirmed by experts, who, by order of the Tribunal and according to the prescriptions of the Sacred Congregation, have examined the woman's body. The obstetric judgment, the advocate observes, given by the physician Caietano Modonesi, who, by his office, had instructed them before the examination, confirms that Christina is still found to be in a state of perfect virginity. It is irrelevant, the advocate argues, that the expert Raphael Montebugnoli disagrees with the aforementioned, if his assertions do not seem worthy of consideration by the advocate. First of all, the physician Montebugnoli affirms that he cannot issue a judgment in a matter of such importance based solely on the obstetric report. But

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this is contrary to the instruction of the Sacred Congregation, and for this reason, the advocate considers it unnecessary to refute his foreign theory. Furthermore, he believes that the integrity of the hymen does not provide an absolutely certain argument for the lack of consummation of the marriage. But, the advocate argues, this is equally, not only contrary to the most accepted doctrine of eminent authors of anatomy and forensic medicine, but also contrary to the practice of the Sacred Congregation, which has constantly recognized in this sign above all a certain and reliable rule for ascertaining virginity.

[*Latin ed. p. 380*]

380. BONONIEN. Finally, he asserts that in this case, the signs commonly called "dentellature," found on the hymen, can also be non-congenital. But the advocate responds that this hypothetical assertion is contradicted by the unanimous testimony of three midwives and other physicians who examined Christina's genitals, and who all judge the signs found on her hymen to be congenital, confirming their judgment with solid reasons. Moreover, even if the aforementioned signs were not congenital, it is certainly true that they do not constitute a valid reason for dispensing with marriage, as midwives and experts testify in unison. Furthermore, the Holy Congregation has not infrequently resolved cases involving requests for dispensation where injuries and tears to the hymen were presented as obstacles. Thus, in Praga, regarding dispensations for marriage, on May 29, 1869; in January, regarding dispensations for marriage, on June 9 and September 22, 1886; and in Melitene, regarding dispensations for marriage, on September 26, 1891. Nor are the reasons lacking, in this case, to move the mind of the Pontiff to grant a dispensation, and indeed, they are most serious. For among the reasons for dispensation, impotence of the husband is prominent, as can be seen in Schmalzgrueber, *De divortiis*, n. 55; and in Cosci, *De sep. thor.*, book 1, chapter 16, n. 294. But, he says, in the case of Francis, impotence is most clearly evident. For Francis, for fifteen years, has fruitlessly attempted to consummate his marriage; and he has also fruitlessly used medicines to cure his weakness of the genitals. At a time not long ago, he himself, in letters given to his wife and her mother, confessed his impotence; and not only his wife, but also all the witnesses of the seventh hand, declare him to be impotent. To these things, the advocate adds an argument drawn from the opinion of physicians. For the physicians Rodolfi, Roncati, and Venturoli, to whom Francis had recourse, both before and after the marriage, to obtain assistance for his virility, unanimously testified before the Judge that he undoubtedly suffered from physical impotence. And in the same manner, the other five physicians selected by the Court of Bologna, among the most renowned, testified

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that—

[*Latin ed. p. 381*]

BONONIAN. After a diligent examination, they unanimously testified under oath that Francis suffered, at least relatively, from impotence. To this grave cause for dispensation, other factors may be added, the advocate concludes, such as the estrangement of the couple, with all hope of reconciliation lost: "It is impossible," testifies the Archbishop of Bologna, "that the minds of these spouses, and of their parents, should be reconciled." OBSERVATIONS OF THE DEFENDER OF THE SACRAMENT OF MATRIMONY. ON THE OTHER HAND, the defender of the marriage points out that Francis and Christina have, for 15 years of marriage, striven to consummate the marriage, but they differ regarding the outcome. The wife asserts that the marriage has never been consummated due to the husband's impotence; the husband, although he does not dare to contradict the wife's assertion, yet, under repeated and insistent questioning by the judge, always responds that he neither affirms nor denies the consummation, and believes that he does not lack the capacity for the conjugal act. He confesses that he has experienced the erection of his member upon contact with his wife, and that he has been able to introduce it into her vagina, but he does not know whether this constitutes consummation. Therefore, the plaintiff, Christina, must, according to the defender, demonstrate, in the face of the presumption of the law and of apodictic arguments, that the marriage has not been consummated. However, the arguments presented by the plaintiff, namely, the husband's impotence and her own virginal integrity, do not appear to the defender to be insurmountable. For, of the five experts in the healing arts who, at the order of the judge, examined Francis's body, not one found certain signs of impotence. As for Christina's physical virginity, this has not been entirely explored and ascertained, the defender states. For the doctor Fabbri, who had examined the plaintiff's body, hesitated because of a small lesion found in the hymen. And the expert Fabbri does not lie: for one of the experts, who were to give a judgment to the judge regarding obstetrics,

[*Latin ed. p. 382*]

382 BONONIA. In his relations, he speaks thus concerning the bodily integrity of Christina: The opinion of the midwife, with regard to Christina's virginity, appears to have considerable probability, but no certainty whatsoever. After these matters were considered, it was deemed necessary to inquire whether a dispensation should be granted from a marriage that is valid but not consummated, in this case. RESOLUTION. The Sacred Congregation of the Holy Roman Church, after deliberation on the 8th of May, 1897, decided to respond: Affirmative. FROM THE HOLY CONGREGATION FOR THE INQUISITION. Bishops of the United States of America

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are empowered to grant dispensations in the root of the matter in cases of disparity of cult, except for the Jewish cult. Most Blessed Father, I humbly prostrate myself before the feet of Your Holiness and present the following case: Dionysius (who is not baptized) three years ago contracted marriage with Maria Iosepha (a Catholic) before a civil magistrate. The non-Catholic party absolutely refuses to consent to the conditions required by the Church in mixed marriages, especially with regard to the baptism and Catholic education of the children, although the wife is free to do as she wishes regarding the education of the daughters. Maria Iosepha consented to this condition before the marriage. Now she regrets having done so; however, since the husband is a good head of household and a good provider for the children, she does not expect him to abandon her. Therefore, in order to validate the marriage and legitimize the children, and for the spiritual good of the mother and the children, I request that a dispensation from disparity of cult be granted, since the husband refuses to give his consent, and the wife knows that her marriage is invalid. GULIELMUS HENRICUS, Archbishop of Cincinnati. RESPONSE. On Thursday, the 3rd of June, 1892. The Most Holy Lord Pope, by divine providence, Pope Leo XIII, in an audience granted to the Reverend Father Assessor of the Holy Office, having carefully considered the particular circumstances...

[*Latin ed. p. 383*]

383 FROM THE SACRED CONGREGATION, considering the circumstances of the case and the clear signs of repentance in the Catholic woman, Maria Iosepha, We benignly grant the prayers, with the prudent judgment and conscience of the Most Reverend Ordinary of Cincinnati, so that, as long as both parties maintain their agreement, the marriage contracted by the Catholic woman, Maria Iosepha, with the non-Catholic, unbaptized man, may be healed in its root, provided that the woman promises seriously to care for, with all her strength, the education of all her children in the Catholic religion, and provided that the agreement of both parties continues. The Ordinary himself, in fulfilling this task entrusted to him, declares that he is acting in the name of His Holiness and as specially delegated by the Apostolic See. He should seriously warn the woman about the grave sin of the contract; he should impose salutary penances upon her, absolve her from censures, and declare that, due to the grace of this dispensation received, the marriage is, as of now, valid, legitimate, and indissoluble by divine law, and that the children born and to be born are to be considered legitimate. Furthermore, he should impose and declare, with the greatest emphasis, the obligation upon the woman, by which she is always bound to care for, as far as she is able, the conversion of her husband to the Catholic faith, and to ensure that both sons and daughters, born and to be born, receive education in the Catholic religion. – Since the validity of the marriage must be established in the external forum, the Ordinary

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should order that the name of both the woman and the man be described in the records, along with the usual personal details, and that a photograph documenting the present concession, communication, acceptance, absolution, and declarations of the woman, as mentioned above, be kept in the Curia of Cincinnati, and that a certified copy be diligently preserved by the woman herself. Contrary opinions notwithstanding. I. CAN. MANCINI S. R. et U. I. Not. Rome, June 20, 1892. To the Most Illustrious and Reverend Lord, Your Eminence, On the 24th day of the past month of April, Your Eminence requested a healing in the root of the marriage contracted by Maria Iosepha, a Catholic, with Peter Dionysion, who was unbaptized, as well as the marriage contracted by Maria N. with a certain Henry M., who was also unbaptized. The rescript of the Sacred Office regarding the healing of the marriage of Maria Iosepha I sent to you a few days ago; now, I send you here the rescript of the same Supreme Tribunal regarding the healing of the other marriage mentioned above. Furthermore, I earnestly recommend to you, on behalf of the same Sacred Office, that you take every possible care to ensure that the children receive an education in the Catholic religion. Your Eminence also proposed two questions: the first was whether the dispensation granted by you, with the healing in the root, regarding the marriages without impediment of disparity of cult, was correct, since one party was not baptized.

[*Latin ed. p. 384*]

384 FROM THE SACRED CONGREGATION OF THE INDEX: It was inquired whether the conditions regarding the education of children, etc., could be fulfilled, while the Catholic party promised, as far as possible, to take care that the children and others would be baptized and educated in the Catholic religion. The second question was whether, notwithstanding the special clause concerning Jews in the faculties that you possess, you have rightly dispensed in some cases with the requirement that Catholic women should not enter into marriage with Jews, who, desiring to contract such marriages, have renounced Judaism in writing. These questions were presented to the Supreme Tribunal of the Holy Office, and those Most Reverend General Inquisitors, in a Congregation held on the feast day of the fifth of June, in the fourth place, on the second day of that month, gave the following resolutions, approved by the Supreme Pontiff: Regarding I: Since the necessity persists, and it has been imposed upon the mother the duty of taking care with all her strength of the baptism and education of the children, it is permissible to make use of the faculties. Regarding II: With regard to the past, it is necessary to pray for healing at the root (for which prayers the Supreme Pontiff has approved). With regard to the future, recourse should be made (by the Ordinary) in each case, after explaining all the circumstances. These things were to be communicated to you by me; in the meantime, I pray for all good and happiness for you from the

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Lord. Your most devoted servant, M. CARD. LEDOCHOWSKI, PREFECT. To Ignatius, to William Eider, Archbishop of TAMIATHEN. To the Secret. of the Archbishop of Cincinnati. FROM THE SACRED CONGREGATION OF THE INDEX: Concerning Books Prohibited by Local Ordinaries. On Friday, December 6, 1895. The following question was proposed: Whether those who have a general faculty to read books contained in the Index of Prohibited Books may licitly read books also prohibited by the Ordinary, without special permission from the same Ordinary? The Most Reverend Fathers ordered that the following should be answered: Negatively.

[*Latin ed. p. 385*]

COMMENTARY 385, and it was only permissible for Bishops to grant it in cases of great necessity, as Saint Alphonsus writes in book VII, number 299: "Only in a case of great necessity can even a Bishop grant it." However, this was more often granted based on the interpretation of the law and the dictates of conscience, rather than by the sanction of any ecclesiastical law. Therefore, Leo XIII showed some leniency towards Bishops and others possessing quasi-episcopal authority, granting them, by the prescription of the law, the faculty of granting such permissions, although only in urgent cases, which were equivalent to cases of great necessity in the subject matter. Furthermore, Cardinals, Bishops, and other Prelates could not read prohibited books unless they had obtained the necessary permissions, as is evident from the cited Constitution of Urban VIII, and from others that could be cited. For this reason, Saint Liguori, when faced with the question: "Can Bishops themselves read prohibited books?" answers: "It seemed to be affirmed: for all Bishops, where there is no formal tribunal of the Holy Office, are born Inquisitors, capable of proceeding in the ordinary manner against those who are guilty in matters of faith. But it must be entirely denied, as stated by Sylvius, Barbosa, and Bonacina, from the Bulls of Julius III, *Cum meditatio*, Paul IV, *Quia in futurum*, and Pius IV, *Cum pro munere*, in which both Bishops and Inquisitors are forbidden from reading prohibited books, except for Seniors and Commissaries of heretical depravity. By 'Commissaries' are meant only those Inquisitors to whom some particular cause has been entrusted, and who can read only those books pertaining to that matter, and only for the duration of the commission. loc. cit." If, therefore, Bishops and others possessing quasi-episcopal jurisdiction cannot read prohibited books, nor can they grant the faculty to others to read them. However, to avoid error, it must be inquired who are those who possess quasi-episcopal jurisdiction. It must be noted that quasi-episcopal jurisdiction should not be confused with ordinary jurisdiction; the former extends to fewer people than the latter; many enjoy ordinary jurisdiction, e.g., Parish Priests, Rectors of local Convents, etc., but they do not possess quasi-episcopal jurisdiction. Acts, Volume XXX, page CCCLV,

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[*Latin ed. p. 386*]

386 COMMENTARY. Furthermore, the legislator in this paragraph does not speak of ordinary jurisdiction, but of a jurisdiction that is almost episcopal; therefore, the law is limited to this. Thus, those who possess this quasi-episcopal jurisdiction are those who, with the exception of those things pertaining to the episcopal order, exercise the remaining aspects of jurisdiction, as if by their own right, with certain exclusions. These prelates are abbots who have a separate territory consisting of one or more towns, and are completely independent of the bishop's jurisdiction; such as, for example, the abbots of Montecassino, St. Paul of Rome, and others. There are also those abbots, whether secular or regular, who are immediately subject to the Roman Pontiff, and who exercise authority over the clergy or religious, or secular clergy, which they have obtained through the rules and constitutions of their order, or through apostolic privileges. There are also those who are said to be "in the diocese," to the extent that they exercise power over the clergy and people of a certain place, which is contained within the diocese of another bishop; therefore, they do not have a separate territory, and their jurisdiction is more personal than local. There are also the superiors general of religious orders; to which are added the provincials. Vicars capitular, when the episcopal see is vacant, since in this case the jurisdiction reverts to the chapter; who, however, exercises it through the vicariate capitular. Finally, the general vicar, not insofar as he is a prelate, but insofar as he constitutes a tribunal with the bishop and exercises the same jurisdiction with him. Nevertheless, superiors of religious orders, whether general or provincial, and abbots who have power only over monks, or the secular clergy, but not over the people, are to be excluded from the concession of this paragraph. Indeed, the legislator expresses himself as follows: "But if these [that is, bishops and other prelates possessing quasi-episcopal jurisdiction] have obtained from the Apostolic See the general faculty to grant permission to the faithful to read and retain prohibited books, etc." Therefore, these prelates possessing quasi-episcopal jurisdiction, of whom the legislator speaks, are those who can, due to faculties obtained from the Holy See, grant permission to the faithful to read.

[*Latin ed. p. 387*]

COMMENTARY 587 concerning the retention and prohibition of books. But, acting in the name of the faithful, neither members of Religious Orders of regular observance, nor secular clergy, but laymen living in the lay state, who are not subject to the General Superiors or Provincials of Religious Orders, nor to other Abbots, provided that they do not exercise jurisdiction over any territory; therefore, Leo XIII does not include them in the present paragraph, and therefore they cannot avail themselves of this faculty. The

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legislator, indeed, takes the term "jurisdiction" in a strict, almost episcopal sense; therefore, it is not to be extended to those prelates who have no jurisdiction over the Christian people. For this reason, General Superiors of Religious Orders, and others who do not exercise any jurisdiction over the Christian people, are compelled to obtain appropriate faculties from the Holy Apostolic See, if they wish to grant permission to their subjects to read and retain certain prohibited books. These individual books are the same as the books specifically determined; whether these or those; for example, Gioberti's *De la Philosophie de l'Histoire*, R. Gesuita's *Moderno*, Bovio Giovanni's *S. Paolo*, Mantegazza Paolo's *Epicuro*, Renan's *Vie de Jésus*. Urgent cases are those in which, pressed by circumstances, the faithful cannot do or achieve anything unless they read that prohibited book. For example, if a young man could not prepare for an upcoming examination unless he read a book by a proscribed author: or if someone could not immediately refute a pernicious error unless he read a work condemned by the Church; and other similar cases. For this reason, if there is sufficient time to request permission from the Apostolic See, Bishops and other prelates cannot grant the requested faculties; for there would be no reason for an urgent case. However, it often happens that it is necessary for Bishops residing, especially, in distant regions, to obtain a general faculty from the Apostolic See, so that they may be able to grant permission to the faithful entrusted to their care to read and retain prohibited books. However, they are bound by a twofold condition: that they grant the faculty with discretion, and for a just and reasonable cause. What the phrase "with discretion" means in our Constitution requires explanation. That phrase, as is the entire paragraph, is taken from the Instruction of Clement VIII, *De prohibitione librorum*, § 2. "Those [Bishops and the Master of the Sacred Palace]..."

[*Latin ed. p. 388*]

388 COMMENTARY: "They will grant this [license to read and retain books, which the Regulations of Trent permitted] in writing and with a signature, to be renewed every three years; this is to be done primarily with the consideration that such a license should only be granted to those men who are worthy, and who are distinguished by piety and learning; and especially to those whose studies have been shown to be for the benefit of the public and the use of the Holy Catholic Church." From the reading of Clement's paragraph, it appears that the phrase "with discernment" refers to certain books, and not to persons; for, since the granting of permission to read books referred to some of the books prohibited by the Regulations of Trent (if there are any books, one or more, from the prohibited list that are permitted according to the Regulations), it was certainly the duty of the Bishops and the Master of the Sacred Palace to investigate and determine which of these books were meant, so that they would grant permission to

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read only those, and not others. Furthermore, it is clear that the phrase "with discernment" does not refer to persons, because those persons must be very clearly defined, and as if identified, in those virtues and qualities with which they must be endowed in order to obtain permission to read these books. However, Pope Leo XIII, when he wished to show himself to be more lenient regarding the reading of prohibited books, seems to have referred to persons rather than books with the phrase "with discernment." This is demonstrated by the new faculties granted to Bishops by the Holy Office after the Constitution on Offices and Duties was completed: for, while in that document some books are only excluded for reasons of content, certain persons are clearly designated to whom the license to read should be granted by the Bishops, namely: "Therefore, you may grant permission to read and retain books prohibited by the Apostolic See, to men alone who are virtuous and learned, with the exception of those who defend heresy or schism, or who undermine the very foundations of religion, whose reading you may only permit to those whom you have seen to be superior in doctrine, piety, and zeal for the faith; and you shall not permit anyone to read books that expressly treat of obscenities." For this reason, the phrase "with discernment" encompasses more persons than books; if it encompassed books in the same sense as in Clement VIII's Instruction, or even in another sense...

[*Latin ed. p. 389*]

COMMENTARY 589. With a milder interpretation, Bishops could not grant to the faithful a general permission to read any books whatsoever that are prohibited, but they could only grant permission to read certain specified books and works, more or less, at the discretion of the granting authority. Nor should the exception of books that explicitly treat of obscenities be raised against our interpretation, for even pious and learned men are prohibited from reading such books; indeed, this exception does not constitute the meaning of the phrase "with discretion," which indicates specific books and specific works, and completely excludes a general permission to read any books whatsoever that are prohibited; a permission, however, which is granted in the alleged Index of the Holy See. Furthermore, if the phrase "with discretion" were to signify books in the second part of the paragraph, the same, more or less, power would be granted to the Bishops as is granted in the first part; namely, the power to grant permission to the faithful for individual books. This is contrary to the context and the words. As readers will understand, in the first part of the paragraph, Bishops exercise their ordinary power, which has been granted to them for individual books, and to grant permission only in urgent cases; therefore, after examining the requested books and the urgency of the cases, they can always grant this permission, and can also delegate it to others, but in those matters that are established in the second part of the paragraph, they

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exercise a delegated power; and therefore they must use it according to the discretion of the granting authority, both as to substance, and as to duration and the conditions established by the Congregation of the Index. From this it follows that Bishops and other prelates, who have obtained from the Apostolic See the power to grant permission to the faithful to read and retain any books that are prohibited, should not grant this permission to all, without any distinction, but should first distinguish between honest and learned men, to whom they may grant permission to read any prohibited books, except those who defend heresy or schism, or who undermine the very foundations of religion; and they should only grant these books to those who are seen to be superior in doctrine, piety, and zeal for the faith; always except for books that explicitly treat of obscenities. And let them be diligently warned that such a selection, as far as its essence is concerned, cannot be waived.

[*Latin ed. p. 390*]

590 The interpretation of these words is left to their discretion, but to establish a law and condition for granting the faculty: provided that certain laws and conditions are observed. Let not the faithful place their trust in the words of this paragraph, for although it is general, it is not limited by any condition; they must first understand that, in this subject matter, the faithful are not to be understood as including all, but only those who are capable of obtaining and using the license. Furthermore, by this second part of the paragraph, no faculty is granted to them, but only an exhortation to request the appropriate faculty from the Holy Apostolic See, so that they may be able to grant the aforementioned license to those faithful entrusted to them. As for who these faithful are, it is not determined by the Bishops, but by the Holy Apostolic See; and therefore, the extension of this term is as great as is asserted in the faculties granted. We are speaking of faculties that have recently been printed and, perhaps, have already been granted to many Bishops. We are not mistaken in saying that the Roman Pontiff can grant the most extensive faculties, encompassing as many faithful as are capable of using them. In practice, however: In the present paragraph, the term "faithful" is extended only as far as the faculties granted by the Apostolic See extend. However, Bishops should not be troubled in discerning the qualities of those requesting such a license, nor should they weigh them with undue scrutiny. It will be sufficient if they recognize men who are learned and virtuous, or who excel in doctrine, piety, and zeal for the faith, either through themselves, or through their published works, or even through the testimony of those worthy of belief. Nevertheless, they must always consider the qualities required by the legislator. However, Bishops must grant such faculties not only out of kindness, but also for a just and reasonable cause: so that doctrine, piety, and zeal for the faith should be the basis for granting a license, unless they are joined with a just and reason-

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able cause. The causes for which such faculties are requested can be derived from the qualities themselves, as specified by the Sacred Congregation in those who request the license. Piety and virtue, as is evident, should not be separated from the other qualities. Those are considered learned who are skilled in many things, not through meticulous study or profound investigation.

[*Latin ed. p. 391*]

COMMENTARY 591: [Knowledge is] acquired, but through hearing or simple reading; hence, a just and reasonable cause for obtaining permission [to read certain books] can be the care and diligence in increasing knowledge, either for one's own benefit or for the benefit of others; and this is especially true if those who seek permission are learned individuals, or prominent writers for Catholic periodicals and newspapers, in which learning holds a significant place; or if they are professors of the humanities, etc. In these cases, a just and reasonable cause is also the necessity of preparing lectures, which sometimes cannot be prepared with the breadth and selection of topics desired by the audience without reading prohibited books. However, the Legislator, with great prudence, denies the faculty of reading books that defend heresy or schism, or that undermine the very foundations of religion; for those who excel in learning are often lacking in solid and profound knowledge of things, and in a sense, they swim on the surface of the water, without being able to explore the depths. On the other hand, those who excel in teaching are, for the most part, professors of various sciences, and other outstanding practitioners of them. In piety, zeal for the faith, and doctrine, Bishops, many ecclesiastical superiors, and many secular and regular clergy, as well as prominent preachers of the divine word, members of various academies, and writers of periodicals that have set as their goal the combating of growing errors, and the defending of truth against unbelievers and the impious; and others, surpass. Hence, Bishops will derive a just and reasonable cause for granting permission from their office, profession, and occupations. However, there is one reservation: books that explicitly treat of obscene matters are not included, since they have never brought any benefit, but rather have always caused a great multitude of sins and an incredible ruin of souls, unlike those that defend heresy or schism, or that undermine the very foundations of religion; because, since they are deeply versed in the dogmas of the faith, and firmly adhere to the authority and judgment of the Church, they are not considered to be in any danger to their souls. But what if Bishops grant a requested permission rashly, and without a just and reasonable cause? Is this to be considered valid? Do they incur any penalties? Regarding penalties, they

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are certainly not bound by any, since there are none.

[*Latin ed. p. 392*]

392 COMMENTARY: Regarding those who transgress such statutes, it has been decreed; however, we do not know how they can be excused for a grave sin, since they violate a law concerning a serious matter, and against the will of many superiors. Nevertheless, the granted license must be considered invalid; for when Bishops exercise these faculties, they do not use an ordinary power, but a delegated one. Therefore, they are not permitted to transgress the conditions prescribed by the delegating authority for granting such a faculty, especially if those conditions are absolute and imperative, as in this case. For the delegated power extends only to the extent of the will of the delegating authority; therefore, when it is clear that the will of the delegating authority is that the delegate grant faculties only with discretion, and for a just and reasonable cause, it is evident that the delegate's power is restricted by these limits, since it does not extend beyond the will of the delegating authority.

64. Paragraph 26 contains a twofold sanction: Firstly, those who have obtained the apostolic faculty to read and retain books included in the Index of Prohibited Books, may therefore believe that they can read and retain any books whatsoever, or ephemerides (periodicals) prohibited by the Ordinary of the place. Secondly, they are bound by a serious precept to safeguard the prohibited books so that they do not come into the hands of others; that is, they must not sell them to others, lend them, or allow them to be read by others. Both of these, in truth, were established by ancient law, either by statute or by custom. Indeed, with regard to the prohibition of reading and retaining books prohibited by the Bishops, such a decree had been promulgated by the Sacred Congregation of the Index: "On Friday, December 6, 1895. " Regarding the proposed question: Whether those who have a general faculty to read books contained in the Index of Prohibited Books, can lawfully read even books prohibited by the Ordinary, without the special permission of the same Ordinary? " The Most Eminent Fathers ordered that it be answered: Negatively." This, indeed, was entirely in conformity with reason and the rules of law; for it is never understood that the legislator intends to derogate from a particular law of a place, unless he expressly mentions it; which is demonstrated in many cases, but also because it is presumed that the Prince ignores all the particular laws, statutes, and customs of each place.

[*Latin ed. p. 393*]

COMMENTARY 393. Therefore, those who desire the faculty of reading, whether they wish to read any books or periodicals that have been proscribed by Bishops, or whether they seek suitable dispensations from them, should remember that there are those who grant permission to read

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books that they themselves have prohibited. For those who established the law can relax it. Or, if this is not possible, they should express their desire by presenting a petition to the Apostolic See; but in no case should they consider that they have obtained grace unless the power to read and retain books condemned by anyone has been expressly granted in an Apostolic Indult. However, it should be noted that, to those to whom the faculty of reading prohibited books has been granted, permission to read proscribed periodicals is also considered to be granted; but the reverse is not true, since legislators are usually stricter in dealing with prohibited books, because they are of greater authority, more suitable for corrupting faith and morals, and they endure for a longer time. On the other hand, not all who purchase pernicious periodicals do so for the purpose of reading or meditating on their articles, but rather to gain political knowledge; nor do they purchase them in order to keep them, but the majority, after reading them, put them to less worthy uses. Catholics, however, when they read articles by heretics, become angry and despise the authors; and many, satisfied with the information they have gained, read nothing else. Furthermore, since not every issue contains heresy or complete articles, it follows that when some issues are discarded after reading, the remaining ones become useless. Those, however, who purchase and read the books of manifest heretics, do so with a malicious intent, and they read them with that intention. And because they have not purchased them with a single coin, they do not discard them after reading, but keep and preserve them. The precept concerning the custody of prohibited books, so that they should not come into the hands of others, was contained in the very prohibition of the books; for since the prohibition included the prohibition of reading and retaining harmful books, it necessarily included the prohibition of giving them to others to be read; otherwise, the prohibition would be completely useless and ridiculous, and it would be almost impossible to know the reason for its enactment. However, what was implicitly contained in the prohibition, the Congregation of the Holy Office expressly warned in the dispensations granted, with these words: "under the condition that they not come into the hands of others." Moreover, our legislator preserved both of these safeguards, openly and secretly, in the new law. For this reason, those who are custodians of public libraries...

[*Latin ed. p. 394*]

394 COMMENTARY: Those who are entrusted with this duty must diligently watch, lest prohibited books come into the hands of those who lack the legitimate authority to read them. These books should be kept in a separate room, to which no one has access, and should be given only to those who either possess legitimate authorization, or have obtained it, and whose custodians and the Library are aware of this; to others, by no means, lest they commit a grave sin and incur the wrath of many. Those who keep

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prohibited books in their private libraries must not lend them to anyone who is not authorized, nor permit such individuals to read them when they visit.

65. The Sacred Congregation of the Index customarily subjects books that are reported to it to a careful examination, and then to proscription, explaining in the report the reasons and motives for which they deserve condemnation. For it is not possible for the Congregation itself to become aware of all the harmful readings contained in books that are published throughout the world. Furthermore, the same applies to Bishops; they cannot immediately recognize all pernicious books; therefore, the faithful must make appropriate reports, so that their knowledge and the wickedness of the books may be brought to the attention of the Bishop. Therefore, a report is necessary, lest harmful books circulate with impunity, causing incredible ruin to souls. Moreover, it is the duty of all the faithful to report harmful books to either the Bishops or the Apostolic See, by which term are understood the Congregations, including the Supreme Congregation of the Inquisition, the Index, and the Sacred Congregation for the Propagation of the Faith, for the regions subject to them. Since each person is obligated to restrain evil according to their own strength and abilities, therefore the legislator exempts no one from making a report (1). (i) Felix Grimaldi, in his book *Les Congrégations Romaines*, page 267, wrote: "The Index is a tribunal; and by virtue of this nature, in order for it to deal with any publication whatsoever, it is necessary and sufficient that this publication be presented to it by a person having jurisdiction in the Church. This person performs the function of public ministry. If a simple priest, or even a layman, were to report a work, it is quite probable that the Index would not deal with it." This is not entirely true. Indeed, the Sacred Congregation of the Index accepts reports from anyone, and from people of both sexes; it is required only that the person making the report explain the reasons for which they consider the book worthy of proscription, and indicate the errors with which the book is tainted. The book, along with the observations prepared by the person making the report, is then sent by the Secretary of the Holy Congregation to one or more consultants who are versed in the subject matter of the book. These consultants then proceed according to the provisions of the Constitution *Sollicita et provida*, issued by Benedict XIV, which, then as now, is the practical code.

[*Latin ed. p. 395*]

COMMENTARY 595. However, certain degrees are assigned to individuals who ought to make such denunciations. And among the common Catholics, those are included who excel in doctrine; for since these are devoted to studies and spend the night reading books, and the day in study, they more easily come to know the errors in books, and, being cultivated in doctrine, they can more safely expose errors and reveal them. However,

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the obligation of denouncing is, according to the law, especially incumbent upon Nuncios, Apostolic Delegates, Local Ordinaries, and the Rectors of Catholic Universities where doctrine flourishes. Rectors, indeed, of all Catholic universities in which various sciences are accurately taught; for that addition, "where doctrine flourishes," does not imply an exception, so that it indicates that there are some Catholic universities where doctrine does not flourish, and therefore their Rectors are not bound to denounce harmful books, but rather it is an explanation, namely, that all universities where doctrine flourishes are to be understood. This, indeed, we understand not only from the very matter itself, but also from the fact that, if these universities where doctrine does not flourish had not been mentioned, the Rectors of those universities would not know that they are not subject to the law, but also from the ancient law, from which that addition was taken. For in the Instruction which is read above in the Index of Prohibited Books, in "Of the Prohibition of Books, § III," we find the following: "It is also necessary for the preservation of the Catholic faith, especially outside of Italy, that Bishops and Inquisitors, and also that public universities where doctrine flourishes, take care to draw up and publish an index of such books," etc.; in this passage, the words "where doctrine flourishes" are most explanatory, and they indicate that no exception is to be made: therefore, the same must be held in the new law. Sacred Congregation of the Index. Moreover, it is entirely false that the denouncer acts as a public official. For the denunciations, with the reasons for the proscription contained therein, are entirely set aside, if those consultants appointed to examine the book do not judge them to be just; but the votes given by these are subject to the judgment of the entire Congregation, which sometimes approves them, and sometimes rejects them, according to the objective truth. The denouncer, therefore, can be considered as one who provides the first indications of errors contained in a book; after that, neither the Congregations nor the Sessions are concerned with him, nor is he questioned further, nor does he know anything about what is decided concerning the work that he denounced.

[*Latin ed. p. 396*]

396 COMMENTARY. But besides the Rectors of Catholic Universities, who, by a special title, are obligated to report harmful books, the Nuncios, Apostolic Delegates, and Local Ordinaries are also bound. The Nuncios are legates sent, who are not Cardinals, by the Roman Pontiff to one or more provinces, to carry out the duties of their legation. It is their duty to have supreme oversight in all spiritual and ecclesiastical matters, to preserve princes and peoples in the Catholic Faith, and in due obedience, reverence, and submission to the Holy Apostolic See, to put into effect Pontifical Constitutions, to report to the Roman Pontiff information concerning matters which appear to promote or harm religion and the Catholic Church, to

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correct vices, to establish ecclesiastical discipline, to enact statutes, etc. To the Nuncios are also assigned Internuncios. Apostolic Delegates are those who, by a special commission, are appointed by the Roman Pontiff, either for universal matters or for specific matters; therefore, they do not act with ordinary authority. Local Ordinaries, on the other hand, are Bishops, and other prelates who have Episcopal jurisdiction over a separate territory, or over lay subjects; for this reason, Superiors of Regular Orders cannot be included in this paragraph, since they are not considered Local Ordinaries, nor are they prelates, but come only under the name of Prelates of the Church. Therefore, the Pontiff asserts that it pertains, by a special title, to the Nuncios, Apostolic Delegates, Bishops, other Local Ordinaries, and the Rectors of Catholic Universities, to report to the Apostolic See, or to the Bishops, harmful books. Therefore, let these individuals diligently fulfill the task entrusted to them; and since a very serious matter is at stake, and one that stems from the countless efforts of our ancestors, let them diligently inquire whether, and which, books are circulated in the kingdom, in the provinces, in the dioceses, so that, with due knowledge of the doctrine they contain, those to whom it pertains may issue the appropriate injunctions. Let them not think that they are in no way bound by sin if they neglect such a duty; for, since pastors are bound to protect the flocks entrusted to them from poisonous pastures, we do not understand how Nuncios, Local Ordinaries, and Rectors of Catholic Universities can excuse themselves with serious guilt if they neglect or fail to perform their duty. It is, therefore, by a special title that these individuals are obligated to report harmful books.

[*Latin ed. p. 397*]

COMMENTARY 397: The Legislator affirms this. This title, however, is either to be understood from the office and function that these individuals exercise, or from the will of the legislator, or from both, as it seems. If it is from the office, the obligation is certainly grave, since from the neglect to investigate and denounce harmful books, very grave, and sometimes irreparable evils, especially the ruin of souls, follow; and from this it follows that the legislator intends to impose such a burden on Bishops, Inquisitors, and Rectors of Universities, under a grave penalty; for it cannot be supposed that the legislator intended to impose, without fault, what is imposed under a grave penalty by the very office that is exercised; and furthermore, he uses the solemn phrase: "it pertains to a special title," because, especially when dealing with a grave matter, it cannot be reconciled with the will to impose something without fault, or with only slight fault. And let us add that legislators are not concerned with those who are burdened by laws or mandates under a slight penalty. Nor should any Rectors of Universities attempt to excuse themselves, claiming that harmful books have been prescribed by the very ministry of public instruction, and that

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therefore they are not empowered to remove them, nor are they obligated to denounce them, since it would be a futile act. For this is not the case, but it is about denouncing books containing harmful reading; these, however, are circulated not only in Universities, but everywhere; therefore, whoever finds harmful books should denounce them, either to the Bishop or to the Apostolic See, even though they may not be able to remove from the hands of professors and students those books that are included in the texts of certain lectures. Let the Rectors of Catholic Universities perform their duty, and let them leave it to the prelates of the Church, especially to the Roman Pontiff, to do what seems right to them. However, ordinary people, and others who are not Inquisitors, local Ordinaries, or Rectors of Universities, are excused under a grave penalty, since they are not bound by a special title to denounce, nor are they so pressed by the will of the legislator as others are; for it is not certain whether the Roman Pontiff intended to impose such a burden under a grave penalty, since there is no indication in the paragraph by which we can ascertain that he intended to impose the burden of denunciation under a grave penalty on all indiscriminately.

66. This paragraph suggests a method to be followed in establishing the denunciation of books, the reading of which is considered harmful; it does not, however, inculcate a precept. It is not necessary, nor...

[*Latin ed. p. 398*]

398 COMMENTARY: It is necessary to state the law; but what is more useful, what is better, and what is more relevant to the matter, should be indicated. It is not permissible to alter the meaning of a word, unless in the subject matter and according to the intention of the author; for Paul says: "All things are lawful for me, but all things do not edify." 1 Corinthians 6:12. Furthermore, dictionaries and usage clearly determine the meaning of each word. However, it is supremely important that, in the denunciation of harmful books, not only the title of the book, but also the reasons for which the book is considered worthy of censure, should be explained; there is no one who would not understand this. For, firstly, a denunciation must be instituted for a reasonable cause; and secondly, the causes of the denunciation should be based on the errors with which the book is tainted. Therefore, it is certainly appropriate for the person making the denunciation to state the reasons for which the book is considered harmful. Secondly, the denouncer is not an accuser, since he does not participate in any sessions or trials, nor is anything revealed to him concerning the matters that are being considered regarding the denounced book; rather, he is a witness who reveals the crimes of the deliquent to the judge; however, in order that he may not appear to be a calumniator, he must make the judge aware of the indicated crimes, and to some extent, persuade him. Thirdly, any denouncer, whether of a lighter character or of malicious intent, must remove any suspicion from himself; he will remove it if he presents the reasons for

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which the denounced book is considered worthy of suppression. Fourthly, although the Prefect of the Most Holy Congregation of the Index accepts any and all denunciations made by anyone, he nevertheless gives particular consideration to those that are based on just causes. Fifthly, in our Congregation, this is an ancient custom, and those who denounce a book must state the reasons. This task is not burdensome, since it is not difficult to detect and write down what the book contains that is contrary to faith and morals, carefully indicating the volume, chapter, and page where the errors are found. The denunciation must be made to the Most Eminent Prefect of the Most Holy Congregation of the Index, or to his Secretary; but it can also be made to the Supreme Inquisition, to the Most Holy Congregation for the Propagation of the Faith, if the matter concerns persons and places subject to their jurisdiction, or even, if there is reason, to the Roman Pontiff himself. Furthermore, all to whom a denunciation has been made must take care to forward it to the Prefect of the Most Holy Congregation of the Index, unless the Supreme Congregation of the Holy Office (if the denunciation is addressed to it).

[*Latin ed. p. 399*]

COMMENTARY 599, if it has been made, desires to establish a judgment concerning the book itself; and this is within its power. However, the accusers must send, along with their observations, the work to those to whom the accusation is directed; for the testimony of truth is the work itself; nor does the Prefect of the Holy Congregation of the Index order the execution of an accusation unless the work in which the censure has been made is before him; since then, both the work and the censure, or accusation, are committed to one or more consultants for examination, according to what is prescribed in the cited Constitution *Benedicti XIV Sollicita ac provida*. The vote, having been completed by these, and printed, is distributed to the Consultants of the entire Congregation, both of the small or preparatory section, and of the Most Eminent Cardinals. On the appointed day, all, being questioned individually, freely pronounce their judgment on the votes of the Consultants, to which the observations of the accuser are also appended; and the work, which is displayed in the hall where the Congregation is held, is either approved, or condemned, or ordered to be corrected, according to the majority of votes. In order that the accusers may cast aside any fear in bringing harmful books to the Roman See, the Legislator provides for their security, by ordering that those to whom the accusation is brought must keep the names of the accusers in the strictest silence; and this is done most prudently, lest hatreds, quarrels, or preconceived judgments arise, and untimely complaints (1). Furthermore, the accusers must know that all the Consultants, the Most Eminent Fathers, the Most Eminent Prefect himself, and the Secretary, and even the servants of the Secretariat or the Congregation, are bound, before undertaking their

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office, to take an oath to maintain secrecy concerning those things which are done in the Congregation; and it is not permitted to anyone to violate this oath without grave sin. For this reason, all those who belong to the Congregation cannot speak about all that is done therein, except among themselves, or with those persons who do not belong to the Holy Congregation, but are bound by the same oath, for some special reason; such as, for example, the auditors of Cardinals who belong to the Congregation, etc. 67. It has always been the power of the Bishops to examine books within their diocese (1). This, however, had previously been prescribed by Benedict XIV in Constitution *Sollicita*.

[*Latin ed. p. 400*]

400 COMMENTARY concerning the prohibition of books judged harmful; for these [authorities] are placed by the Holy Spirit to govern the Church of God; therefore, in the places subject to them, they ought to promote what is beneficial to religion and to the faithful of Christ, and to restrain what is harmful. Hence, the power to prohibit harmful books has never belonged to private individuals, but on the contrary, the Roman Pontiffs have often urged and admonished them to diligently and attentively fulfill this duty, as is evident from numerous documents and from the very Canons of Trent. It will be useful to bring such documents to the knowledge of our readers. Therefore, having omitted the older ones, Leo XII, on March 26, 1825, admonished the Bishops to use the authority with which they were endowed by Christ, and to strive to remove pernicious books from the hands of their subjects, and to teach them what is salutary and what is deadly. "His Holiness commanded that "all Patriarchs, Archbishops, Bishops, and others entrusted with the government of the Church, should recall to mind those things which, by order of the Sacred Council of Trent, and in the observations, instructions, additions, and general decrees of the Supreme Pontiffs Clement VIII, Alexander VII, and Benedict XIV, were established for the prohibition and suppression of wicked books, namely, the Index of Prohibited Books; that, because it is quite impossible to refer all the harmful books constantly appearing to the Index, they should, with their own authority, strive to remove such books from the hands of the faithful, and through them, the faithful should be taught what kind of food is salutary, and what is harmful, so that they may not be deceived or corrupted by any appearance." (1) As the calamities of the Church increased, even due to the influence of wicked books, and because some Bishops, either under the pretext of a lack of jurisdiction, or for some other reason, disregarded the prohibitions, Pope Pius IX, on August 24, 1864, issued letters, promulgated through the Congregation of the Index, in which he reminded the Bishops of the duty incumbent upon them to report harmful books to the Apostolic See, and to prohibit them, as they would judge necessary and opportune. We

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present these letters in their entirety to the knowledge of our readers, and we transcribe them from our Commentary on the Constitution of the Apostolic See, Vol. 1, page 136. (1) Index of Prohibited Books, XLVIII. Edition, 1881.

[*Latin ed. p. 401*]

401 COMMENTARY. In Rome, My Lord, "Among the many calamities with which the Church of God is afflicted in these sorrowful times, it is certainly necessary to mention the flood of wicked books that inundates almost the entire world, through which, by means of nefarious and misguided men, the divine Christian religion, which ought to be held in honor by all, is despised, good morals are utterly undermined, especially among the unwary youth, and also the rights and order of social customs are perverted and disturbed in every way. And they strive to accomplish this, not only through books of great scientific elaboration, but also through small books that are sold at a low price, and through public and specially prepared periodicals, so that they may not only insinuate this poison to the learned and the knowledgeable, but also corrupt the faith and simplicity of the uneducated and the common people. Those who watch over the flock of Christ, the legitimate Pastors, in order to avert this ruin from the people entrusted to them, bring to the Sacred Index Congregation whatever books they deem harmful, diligently striving, with regard to the judgment and condemnation of the Roman See, to deter the faithful from reading such things. And the Holy Congregation has not found this to be a difficult task, and continues to do so, expending daily effort and study in order to fulfill the duty demanded of it by the Roman Pontiffs. However, because of the increasing reports from the entire Christian world, it is not always possible to constantly provide a prompt and expeditious judgment on every case, which results in the provision sometimes being too late and the remedy ineffective, when already enormous damage has resulted from the reading of these books. To avert this inconvenience, the Roman Pontiffs have not hesitated, and as we have been silent about the examples of other ages, in our own age, by the mandate of the Most Holy Leo XII, issued on March 26, 1825, which was inserted at the end of the Regulations of the Index, and attached to these Letters, by virtue of which it is ordered to the Ordinaries of their dioceses, that they strive, with their own authority, to prohibit and remove from the hands of the faithful all books that are harmful in their diocese." Since this Apostolic mandate's wise Constitution responds best to the present needs of the faithful and to the preservation of doctrine and morals, [reference to a document: "Acta, Vol. XXX, p. CCCLV"].

[*Latin ed. p. 402*]

402 COMMENTARY: "It pleased the Most Holy Pope Pius IX that his memory be honored, and that this matter be brought to light again, and that

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the local Ordinaries demand its observance, which We, through these exhortatory letters, diligently perform in the name and with the authority of the Apostolic See. If due obedience is rendered to these things (as We firmly believe), then grievous evils will be removed, especially in those Dioceses where the urgency of prompt correction demands it. Lest anyone, under the pretext of a lack of jurisdiction, or under some other guise, dare to scorn or disregard the judgments and prohibitions of the Ordinaries, We grant, as We do now in His Name and by His Authority, that they may proceed in this matter, even as delegates of the Apostolic See, notwithstanding any contrary objections. To the Apostolic judgment, however, shall be referred those works or writings that require deeper examination, or in which the judgment of the Supreme Authority is required to achieve a salutary effect. In the meantime, We earnestly pray for you, Most Reverend and Illustrious Lord, that you may receive an abundance of divine graces, and that you may readily exhibit yourselves in all things that are pleasing to us." Given in Rome, on the 24th of August, 1864. Therefore, by the force of these letters, the power is asserted for Bishops to prohibit harmful books within their own Dioceses, not only by their own authority, but also by authority delegated by the Roman Pontiff. And this delegation of power is not to be understood in such a way that Bishops can use it only in more serious or urgent cases, or when they cannot decide the matter according to their own right (a); indeed, no such meaning is derived from the aforementioned letters, but rather the contrary, since Bishops are affirmed to have their own authority in prohibiting harmful books of any kind: their own authority (by the mandate of Leo XII), and so that no one may despise this authority of the Bishops, whether under the pretext of a lack of authority, or under some other guise, the Roman Pontiff confers upon Bishops a delegated power, not for this or that case, but to exercise the assigned office, and (a) This appears to be the opinion of the Most Reverend G. Péries, who writes: "Furthermore, in cases of urgent peril, the head of the diocese can proceed immediately as a delegate of the Holy See, even if his ordinary powers do not extend to allowing him to decide the matter according to his own right." (The Index, p. 134).

[*Latin ed. p. 403*]

COMMENTARY 405: so that all may be bound by the judgments of the Bishops. Hence, through such a disposition, Pope Pius IX desired to consult with the Bishops, and to give authority to the Bishops, which no one existing in the diocese could despise, and to the authors; for if they consider the proscription proclaimed by the Bishops to be unjust, they can appeal to the Pontiff in Rome; indeed, a judgment delegated can be challenged by the delegating authority, through an appeal. All of this is confirmed by the letters which the same Holy Office Congregation of Pope Pius IX, by its authority, sent to all the Metropolitans on April 2, 1873; in which it sought

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counsel from them, and also urged them to oppose pernicious books and periodicals that are invading the Catholic world. "Indeed," the Fathers say, "there is good hope that salutary fruits will be produced, and that more evils will be averted from the minds and hearts of young faithful, if the Prelates of the Church not only pay attention to the proscription of so many pestiferous books and periodicals, but also, in their visitations and pastoral letters to the clergy and to the people, they warn and exhort against the flood of errors, and especially if those who are concerned with the care of souls take care to send written materials with all prudence, urging them to steadfastly defend and be warned, so that they may entirely abstain from the reading of wicked books and periodicals, since these openly endanger the faith, morals, and society." "And it is necessary that the Bishops should take care that learned and approved men of both the clergy publicly refute and undermine the errors that are spreading, and that they also examine the works and periodicals that directly attack the faith and morals; and in matters of greater importance, after the opinions of learned men have been received, the Holy Office Congregation must be certain that it can pronounce a final judgment, to be confirmed by the Apostolic See, on these matters." (a) Taken from the authentic page. Let the Bishops note that, through such sanctions, they have been reminded to proscribe books and periodicals that directly attack the faith and morals; for this reason, books to be proscribed must contain manifest errors. Hence, it is necessary to abstain from the proscription of books that contain propositions that are either doubtful or tolerated by the Church: such books should not be proscribed.

(a) Extracted from the authentic page.

[*Latin ed. p. 404*]

404. Furthermore, the Sacred Congregation of the Index must moderate itself in its judgments, according to the provisions of the Constitution *Sollicita et provida*, which in § 17, Benedict XIV admonishes all Consultors and Fathers to keep before their eyes, in the examination of books, the dogmas of the Holy Church, and the common doctrine of Catholics, which is contained in the decrees of the General Councils, the Constitutions of the Roman Pontiffs, and the consensus of orthodox Fathers and Doctors. But if this is what is required of the Sacred Congregation of the Index, much more so is it required of Bishops, who are also in danger of having condemnations pronounced against authors who have been judged to be either outside or contrary to the laws of truth and justice, annulled through an appeal to the Holy See. Most aptly and truthfully, the esteemed Arndt wrote on this matter, in the aforementioned place: "But, nevertheless, the power that belongs to a Bishop is not so great that he should, as it were, take the place of a universal Council, or of the Roman Pontiff, in judging doctrines. Therefore, he cannot, by himself, prohibit a book because

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of propositions which the Church has not condemned, nor rejected. Consequently, doubtful propositions, which are nevertheless tolerated by the Church, cannot justify a prohibition. However, when dangerous propositions are presented, which are very close to condemned opinions, it is permissible for a Bishop to prohibit the book within his Diocese." Therefore, it would be untrue to assert that Bishops would act in a way that is contrary to the common good, if they were to turn their attention and minds away from books that promote the faith, and towards those that undermine discipline and morals; for Pope Pius IX admonishes them not to neglect the examination of works and periodicals that directly attack the faith and morals; and our legislator commands them, even as delegates of the Apostolic See, to strive to suppress and remove from the hands of the faithful, within their Diocese, books and other writings that are harmful, without exception. Therefore, with regard to books that are manifestly pernicious, Bishops possess all powers by virtue of this Constitution, so that they are not necessarily required to appeal to the Apostolic See in order to suppress such books or periodicals, since they can suppress them, both by their own authority and by delegated authority. And not only those that are printed within their own Diocese, but also those that are brought from elsewhere, and are published and disseminated therein: for the law includes both cases when it says "published or disseminated."

[*Latin ed. p. 405*]

COMMENTARY 405. However, if books are circulated within the respective dioceses that require more subtle examination, either because they treat of more difficult matters, or of recently discovered things; or concerning sciences in which common knowledge and understanding are present, yet either with a new method, or with arguments derived from ancient idioms and original languages, or from natural sciences, in which suitable and cultivated individuals are not found within the diocese; or if works have been published by authors who have nothing older than the authority of Bishops to despise, and this is proven by experience, or by others who, because of the offices they hold and the power they possess, could create danger for the Bishops themselves; or if it would be detrimental for superiors to exercise judgment on their subordinates' books, so that if books are prohibited by their own Metropolitans, Primates, or Patriarchs, or if a book is condemned, it would incite disturbances and contentions; in such cases and similar ones, Bishops are warned to, having set aside their own judgment, bring these harmful books to the Apostolic See, and to await a judgment from that See. The Pope gives this instruction, not because he deprives Bishops of the power to judge even these books, but for the sake of prudence; for in these circumstances, in order to achieve a salutary effect, the judgment of the highest authority seems absolutely necessary. We have said that Bishops can prohibit any harmful books within their own diocese,

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whether printed there or brought from other places, and that the faithful entrusted to them are bound to render due obedience, and that they can read books prohibited by them in no way, unless they have obtained a suitable and legitimate dispensation. However, in each diocese, or almost, the Regular clergy are exempt from the jurisdiction of the Bishops, and are subject to their own superiors according to their rules. Therefore, the following questions must be asked: 1. Are the Regular clergy bound by the prohibition of books issued by the Bishops? 2. Do the superiors of the Regular clergy have the power to prohibit books for their own subjects? Regarding the first question, Father Vermeersch considered that the answer should be negative. "For the Regular clergy properly have," he writes on page 30, "and also for some congregations, e.g., the Congregation of the Most Holy Redeemer, a general privilege of exemption. Among the exceptions made to this privilege, which the authors have collected with the utmost care, nowhere is found..."

[*Latin ed. p. 406*]

406 COMMENTARY: "The present case arises. This matter has not been overlooked, "since the Regular Canons clearly teach concerning prior episcopal censorship. However, the power to proceed, even by apostolic delegation, which has this general force, to grant the Bishop of "scopi" greater authority, does not extend from itself to persons not subject to the efficacy of the episcopal law, unless it is established that the delegation was given for this purpose. In the present case, it seems to have been given rather for this purpose, so that the Bishops of "scopi" may more certainly examine all books, as we stated earlier. With this power of examination, Bishops can deal with books even those purchased, or from external sources. Nor does it matter if a book has been published outside the diocese, or has been approved by another prelate. However, in the latter case, the exercise of this power will not be prudent without very serious reasons." The same is written by the esteemed Professor Péries, *Op. cit.*, page 164, who, however, is opposed by the esteemed Vermeersch, whose words he also quotes (a). Nevertheless, the contrary opinion seems true to us (and learned men will excuse us); for the Regular Canons, indeed, are subject to the prohibition of books and periodicals issued by the Bishops for their dioceses. And 1°. The reason for prohibiting harmful books by anyone is the same; for they are prohibited in order that faith may not be corrupted, and that morals may not be harmed; this reason applies both to the Roman Pontiff and to Bishops, and to other local Ordinaries. But the Regular Canons are subject to the prohibitions issued by the Roman Pontiff, whether directly or through Congregations to which He has granted this power; therefore, they are also subject to the prohibitions promulgated by the Bishops. 2°. It belongs to the Bishops to prohibit harmful books, not only by delegated authority, but also by their own authority. It is certain that the Regular

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Canons have always been subject to the authority of the Bishops, and have only obtained exemption in recent centuries, with the exception of certain chapters, in which they have always been subject to the authority of the Bishops. Therefore, as (a) "The exempt Regular Canons are not obliged to take into account the condemnations of books or journals made by the Bishop of the diocese in which they reside, since they are not his subjects." Furthermore, both (scholars) believe that the same power belongs to Regular Prelates with regard to their subjects. "The same power, as is clear, belongs to a Regular Prelate with regard to his subjects." Verm. page 29.

[*Latin ed. p. 407*]

COMMENTARY 407: It must be demonstrated that the Regulars are subject to the prohibitions of books issued by the Bishops. It would be necessary for the Regulars to present some Pontifical Constitution by which they demonstrate that they have obtained, even implicitly, such a privilege, that is to say, that they are not subject to the prohibition of books issued by the Bishops. However, although we have examined many Pontifical Constitutions concerning the Regulars, we have never found in them any indication of such a privilege. Therefore, the full authority of the Bishops remains in force concerning the Regulars with regard to the observance of such prohibitions, until these present an authentic decree by which they demonstrate that they have obtained such a privilege from the Roman Pontiff; for the authority of the Bishops remains intact. But it is impossible for such a Pontifical decree to be produced. Indeed, 3°. It is well known that the opinion of all Canonists is that Regulars, even though exempt, are subject to the authority of the Bishops in matters pertaining to the faith; but it is equally well known that harmful books are most often prohibited because they undermine the discipline of faith and morals; therefore, this is a matter that pertains to the faith: therefore, the Regulars are subject to the judgments of the Bishops in such matters. 4°. All likewise, the commentators on the Sacred Canons decide that the Regulars are subject to the authority of the Bishops with regard to ecclesiastical censures imposed by them; and that they are bound to observe them: and this is established by the authority of others, and especially of the Council of Trent, Session XXV, De Regularibus et Monialibus, Chapter XII: "Censures and prohibitions, whether issued by the Apostolic See, or promulgated by the Ordinaries, by order of the Bishop, must be published and observed by the Regulars in their churches." But the Bishops sometimes prohibit harmful books under censure, and they can prohibit them; therefore, the Regulars are bound to observe this; therefore, they cannot read books that have been prohibited under censure by the Bishops, without incurring the same. Would they say that they are only bound by the prohibition of harmful books issued by the Bishops under censure, and not by others? Therefore, it is false that the Regulars are simply and universally exempt from the prohibition of books

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issued by the Bishops. By what argument do they demonstrate that they are not subject to other prohibitions promulgated without censure? 5°. In the aforementioned Constitution, Inter multipliées, Pope Pius IX defines that it belongs to the Bishops to have the power to prohibit harmful books by their own authority. Lest anyone, under the pretext of a lack of jurisdiction, should disregard their prohibitions, He commands them to proceed in this matter even as delegates of the Apostolic See.

[*Latin ed. p. 408*]

408 COMMENTARY. Furthermore, no layman, nor cleric of the secular clergy, could disregard the prohibitions of the Bishops, after the Roman Pontiff had decreed that such prohibitions could be issued by them, that this power belonged to their proper authority, and that no one could disregard it under the pretext of a lack of authority. Therefore, those who put forward such a pretext were entirely the Regular clergy, who claimed to be exempt, and therefore not subject to such prohibitions. But the Roman Pontiff calls this opinion a pretext, a specious argument; therefore, Pope Pius IX judged that the Regulars were subject to the prohibitions of harmful books issued by the Bishops by their own authority. However, to prevent such opinions from persisting, and to ensure that no one henceforth dared to rashly disregard such prohibitions issued by the Bishops, or to presume that they were not issued, the Pontiff granted them the right to act as delegates of the Apostolic See in this matter, notwithstanding any contrary provisions. Therefore, at the very least, after such Apostolic letters of Pius IX, the Regulars are bound to observe the prohibitions of books issued by the Bishops.

6th Day, Saturday, December 6, 1895, to the Congregation of the Index. "A question was proposed: Whether those who have a general faculty for reading books contained in the Index of prohibited books, can licitly read books prohibited by the Ordinary, without the special permission of that same Ordinary? The Fathers responded: Negatively" (a).

Leo XIII, in this Constitution Officiorum, commands that Catholic people throughout the world should religiously obey the rules issued by him. Therefore, no one is excepted. However, in these very rules, § 26 states: "All who have obtained the Apostolic faculty for reading and retaining prohibited books, cannot therefore read and retain any books whatsoever, or periodicals prohibited by the Ordinaries of the places, unless a power to read and retain books condemned by anyone has been expressly granted to them in an Apostolic Indult." But no one will deny that the Regulars require the Apostolic faculty in order to read prohibited books; therefore, they cannot read or retain books and periodicals prohibited by the Bishops, unless a power to read and retain books condemned by anyone has been granted to them in an Apostolic Indult. Therefore, the Regulars cannot read books prohibited by the Bishops without an Apostolic (a) Acta S. Sedis, Vol.

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XXX, p. 374.

[*Latin ed. p. 409*]

COMMENTARY 409, with the authority to do so, or without the permission of the Bishops who prohibit them. They are therefore subject to the prohibitions of books issued by the Bishops. We cannot, indeed, suppose that Leo XIII wished to preserve for the Regulars a privilege of this kind, which either he never granted, or which was abolished by Pius IX, without mentioning anything about it, especially since § 35 subjects them to the censures instituted by the Bishops, and § 36 forbids them from publishing books without the permission of the Bishop. 8°. Finally, in order to be more certain about this matter, we consulted the most distinguished Professors of Canon Law, and also the Superiors of the Regulars, who replied that the opinion we defend should be maintained. After these things, if any difficulty arises, let it be this: and how can the Regulars be urged by the words of the very paragraph: and that they should strive to take them away from the hands of the faithful; for we said a little above that the religious are not to be understood in the name of the faithful; therefore, when the Holy Father commands the Bishops to strive to take away harmful books from the hands of the faithful, it must be said that by this very command, the religious are excluded from such a law. However, this argument must be considered, because the consequence is more evident than the premise; for it would follow that neither the secular clergy nor the religious are subject to such prohibitions issued by the Bishop, since neither of them is understood in the name of the faithful. It is best, but truly, that the legislator simply names the faithful in this place, both because the harmful books are of greater danger to them, and because they are usually compelled only by the use of power. But for the religious, it is sufficient that they know the will of their superiors, if it is necessary, so that they may render due obedience, without being compelled to exercise judicial or coercive power. However, does not the power delegated to the Bishops seem to be such that they can more certainly reach all books, since they have the power to prohibit books, even those of exempt or external authors? Such an interpretation does not seem acceptable, 1°. because the Regulars have never held such an opinion, nor have they had, or do they have, that privilege of commentary, by which they have believed, or believe, that the Bishops do not have, or do not have the power, to prohibit harmful books, if they come from the Regulars. 2°. Because the Roman Pontiffs also grant delegated power in the prohibition of books.

[*Latin ed. p. 410*]

410. COMMENTARY. To Bishops, so that none might, under the pretext of a questionable interpretation, dare to scorn the authority delegated to them. 3°. Because the literal meaning and the intention, both by Leo XII,

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and by Pope Pius IX, and by Leo XIII, contradict this interpretation, as is evident from the reading. 4°. Because no one has doubted, nor can doubt, that Bishops can prohibit books harmful to the faith from being introduced into their dioceses; for this belongs to the episcopal office. The other question can easily be resolved if we say that Regular Priests can, with respect to their subjects, prohibit the reading of books which they consider harmful, by virtue of the authority they have over them, and by reason of the vow of obedience by which their subjects are bound to their superiors; however, they cannot impose a juridical and authentic prohibition, as is done by the Roman Pontiff, by the Sacred Congregation of the Index, and by Bishops. No Regular Priest, having been granted such a faculty, can bring forth a Pontifical decree; for the authority inherent to him does not extend to this, since the authority granted to them by their Rule is sufficient to prohibit harmful books to their subjects. In order that no doubt might remain on the matter, we questioned Regular Priests, whether they claim this as a right, or a privilege, or whether they believe it to belong to them, and they answered in the negative; therefore, we do not know by what argument it can be demonstrated that the same power belongs to superiors of Regular Orders in the prohibition of books, as belongs to Bishops.

TITLE II. Concerning the Censorship of Books.

68. Having set aside those things which seemed to pertain to the prohibition of books, the Legislator turns to establishing their censorship, determining by whom and how it should be carried out, which books should be subjected to censorship, what is the duty of printers and publishers concerning the printing of books subjected to ecclesiastical censorship; finally, the decrees issued by him are given with appropriate sanction. Censorship, as we have said, is a judgment concerning the orthodoxy or heterodoxy of any book or writing.

[*Latin ed. p. 411*]

COMMENTARY 411: Furthermore, those engaged in censorship must also pay attention to another matter. When the Pontiff determines which books may be approved for publication, they must consider whether these books are being published under the authority of those to whom the power to permit printing and publication belongs. Otherwise, those appointed as judges to undertake the censorship should, from the outset, observe whether they themselves, or others, are competent and legally required censors for such a type of book. Furthermore, with regard to editions and versions of the Holy Scriptures, the Pontiff recalls in this section § 30 what he had previously stated in § 7. In that paragraph, the matter discussed is the versions of the Holy Scriptures in the vernacular languages, and it was decreed that: 1°. Such versions, even if composed by Catholics, may not be permitted for public use with any common annotations. 2°. However, if they have been published under the supervision of Bishops, with

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annotations taken from the holy Fathers of the Church, and from learned and Catholic writers, the approval of the Bishops is sufficient. Therefore, when examining such versions of the Holy Scriptures in the vernacular languages, censors must keep in mind how many passages have been provided with common commentaries and annotations, whether difficult passages have been properly explained, from which Fathers the commentaries have been taken, and from which Catholic writers the annotations. Moreover, they must not be concerned if the authors have also taken some statements or information from heterodox writers, especially in those matters that concern topographical, ethnographic, and archaeological notions, and information obtained in our time from monuments discovered and being discovered in Assyria, Palestine, and Chaldea. Censors, above all, must pay attention to this, so that the Catholic dogmas transmitted in the Holy Scriptures are protected, and their true meaning is preserved. 69. It was necessary for such a law to be renewed; for if it were permissible to publish again books once proscribed by the Apostolic See, the proscription would become useless, since the faithful could read in new editions what had been condemned in the previous prohibitions. Clement VIII had already noted this in the Instruction preceding the Index of Prohibited Books. "For the preservation of the Catholic faith," he said, "it is not enough that condemned passages are known from already published books, unless it is also taken care that neither the same books proliferate again, nor do similar ones emerge and spread, which may deceive the minds of the faithful."

[*Latin ed. p. 412*]

412 COMMENTARY: "Those who pollute [the faith] with poison, and are deserving of just and merited condemnation, are 'judged' [as such]." We have stated that this law has been renewed; for it had already been promulgated by Clement VIII in § VI concerning the prohibition of books, in which it was declared and established: "Concerning, in general, harmful and pernicious books, it is declared and established that those books which, having been published in a certain language, and then prohibited and condemned by the Apostolic See, are also to be considered, wherever they are translated into any other language, to be prohibited and condemned by the same Apostolic See, throughout all nations, under the same penalties." Furthermore, this was brought to the attention of the Bishops by the Sacred Congregation of the Index on the fourth of March, 1828, under the pontificate of Leo XII, governing the entire Church (a). Therefore, it remains established that books which have been proscribed by the Apostolic See cannot be reprinted or disseminated again. However, it must be carefully noted that these books which have been proscribed by the Apostolic See are not to be understood as those which are included under general rules, but rather those which have been specifically and by their own title placed on the Index; for the words "proscribed by the Apostolic See" have a definite

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meaning, and are so clearly expressed that no one can doubt that a complete prohibition is intended; and therefore, everyone is prohibited from again printing and publishing these books. This could not be understood in the case of books included under general rules, since no special judgment has been pronounced concerning them, and no explicit words of proscription have been used; therefore, their wickedness is not recognized, at least by many, and others may have different opinions about their wickedness; thus, the editors and printers could not always be justly called to account for the printing of new editions of such books. Finally, it is the practice that those who wish to know whether a particular book is subject to prohibition should read the Index of Prohibited Books. However, the Legislator himself grants permission for prohibited works to be reprinted again, if there is some special circumstance. These exceptions are never sought because of a lack of authority, but rather because of some reason inherent in the very work that has been proscribed. Examples may be found in the case of Galileo's *Dialogue Concerning the Two Chief World Systems*, whose opinion, since it could not then be defended with solid arguments, and seemed to contradict the obvious and literal sense of the Holy Scriptures, was prohibited on June 22, 1633, by (a) Index lib. prohib*. XXIV.

[*Latin ed. p. 413*]

COMMENTARY 415. Before the Inquisition, it was condemned. But as the sciences of astronomy and natural philosophy grew almost daily, and solid arguments were discovered demonstrating the motion of the Earth, in the year 1758, a decree prohibiting anyone from teaching this opinion was removed from the Index; in the year 1822, the printing of books was permitted in which, not as a hypothesis, but as a thesis, the motion of the Earth was presented; and finally, in the year 1835, during the pontificate of Gregory XVI, the aforementioned Dialogue of Galileo was omitted from the new edition of the Index. The same occurred with the work of Copernicus, whose book *De revolutionibus orbium coelestium* was prohibited by the Holy Congregation of the Index on March 5, 1616, during the pontificate of Paul V, and was subsequently removed from the Index. We know that the same happened with the book *V de Romano Pontifice* written by the most learned and venerable Cardinal Bellarmine, in which, in Chapter IV, the opinion regarding the direct power of the Roman Pontiffs over temporal matters is refuted, while in Chapter VI, indirect power is defended; and therefore, this book was condemned. However, after further consideration of the matter, and after the truth of the opinion asserted and defended by Bellarmine was discovered, the book was removed from the Index. And we confidently expect the same to happen with books placed on the Index for this reason, because, for example, those defending the Immaculate Conception of the Blessed Virgin Mary were considered to be leading heretics those who held the contrary opinion, which was certainly

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illicit before the definition. This, however, will be the task of the Roman Pontiff. No editor or printer, acting on their own authority, should dare to reprint books placed on the Index, even if they seem to have the most evident reasons; but rather, they must first obtain permission from the Holy Congregation of the Index, and observe the conditions prescribed by it.

69. (a) This section § 32 does not pertain to decrees issued by the Holy Congregation of Rites, nor to supernatural events that do not concern the Servants of God or the Blessed whose cause is being considered before the aforementioned Congregation, or which were performed by them after the cause has been concluded, and which have been definitively determined by the solemn Canonization of the Supreme Apostolic See. And it is clearly a typographical error that the numbers 69 and 71 were repeated. Therefore, we will indicate 69. 71. a a.

[*Latin ed. p. 414*]

414 COMMENTARY: The matter of independence is discussed; for it pertains to the judgment of the Bishop, as we have demonstrated above in note 51, page 105. Therefore, the disposition of this law must be explained strictly; it is indeed prohibited that anything whatsoever, which in any way pertains to the beatification and canonization of the Servants of God, whose cause is still under consideration, be published without the permission of the aforementioned Sacred Congregation. To illustrate this with an example: Before the Sacred Congregation of Rites, the cause is presented and considered regarding the value of the procedural acts, both those prepared by the local Ordinary and those prepared by order of the Apostolic See, regarding the veracity and suitability of the witnesses, regarding the reputation for sanctity of the Servants of God, regarding the worship rendered to them, regarding the heroic degree of the virtues they exercised, regarding the miracles wrought through their intercession and invocation. In these matters, the Defenders of the Faith present arguments and proofs, the Promoter of the Faith makes observations, once, twice, or even three times, as he deems necessary, the defenders respond to these observations to refute them, and the Consultors offer their observations and judgments. These are precisely the matters that pertain to the causes of beatification and canonization of the Servants of God, and these are prohibited from being published, with the exception of the permission of the Sacred Congregation of Rites. However, such publication is prohibited while the cause of the Servants of God is pending before the Sacred Congregation of Rites, as we have said, and not after it has been completed through solemn canonization; although no one should think that, after that, anyone is free to publish these things without any required authority; for such publications fall under common law. It must be understood that, from the day the procedural acts are delivered to the Sacred Congregation of Rites, until the solemn canonization, everything is under the authority of

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the Promoter of the Faith, so that, except for the authority of this official, nothing, absolutely nothing, can be published about the Servant of God, neither his life, nor his biography, nor anything else whatsoever; but this authority of the Promoter ceases after the canonization has been performed, and his authority is replaced by that of the common law, or of the Bishops, or of the Master of the Sacred Palace. We have questioned the very astute Promoter of the Faith himself on this matter. This judgment is not found to contradict the obvious meaning of the law promulgated by Leo XIII, in which, when it is said: "Those matters which in any way pertain to the causes of beatification and canonization of the Servants of God, without the approval of the Sacred Congregation of Rites..."

[*Latin ed. p. 415*]

COMMENTARY 415. Documents intended for the use of superiors cannot be published, and one might wonder if such a prohibition could be perpetual, since even after the act of canonization, these documents still pertain in some way to the Causes of the Servants of God. However, this is not the case.

1. Because the legislator, in the present time, speaks of those acts that pertain to the Causes of Beatification and Canonization of the Servants of God; the cause, however, is ongoing; consequently, the legislator speaks of those acts that pertain to those Servants of God whose cause is under investigation; but once the canonization is completed, those causes are completely closed, and they cannot, except improperly, be called causes; that is to say, in the sense that there was once doubt about the truth or justice of those causes, and therefore they were investigated by judges.

2. Because, from the reading of the law, it is by no means clear that the legislator intended to extend such a prohibition to times following the canonization; therefore, the laws demand that, in doubt, the minimum be followed.

3. Because, after the complete canonization, the same reasons do not apply for observing such a law as apply while the cause is under investigation.

4. Because, in the ancient legislation, such publications constituted a special right; it cannot be considered that the legislator abolished this special right, nor did he openly and appropriately warn those subject to the law; but he did not warn them at all. It is certain that, according to the ancient law, the publication of such documents was not prohibited after the solemn act of canonization, but only while the cause was pending; this is demonstrated both by fact and by law. And by fact, it is known that many acts of the Saints, visions, revelations, etc., have been published without the required permission of the Holy Congregation of Rites. The most recent publication perhaps refers to those writings about herself written by Saint Veronica of Julian, published by Father Pizzicaria, S.J., in the years 1895-1897, and in which, either on the front of the volumes or at the end, the

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permission granted by the Holy Congregation of Rites appears, along with the approval of one Episcopal and one Provincial Curia of the Society. And by law, because the laws concerning the non-publication of acts pertaining to the Causes of the Servants of God always refer to the time when the Cause of the Servants of God was before the Holy Congregation of Rites. Alexander VII, on July 23, 1661, issued the following decree: "His Holiness expressly forbade all, both within and outside the city..."

[*Latin ed. p. 416*]

416 COMMENTARY: "To all printers or typesetters in any place, it is permitted to print, under any pretext, cause, or color, and with any authority, license, and approval, all information and other writings pertaining to the causes of Beatification and Canonization; and if any such things have been printed with reckless audacity contrary to the tenor of the present decree outside the City, [the Holy See] declares that they are to be entirely devoid of credibility; furthermore, [the Holy See] commands and strictly orders all Inquisitors, Patriarchs, Archbishops, Bishops, and other local Ordinaries, that in their respective dioceses or provinces, they diligently watch, lest anything be done contrary to the aforementioned provisions, or attempted." (a) This decree concerns information and writings pertaining to the causes of the Servants of God, which, if printed outside the City, are declared to be entirely devoid of credibility. Therefore, the information and writings pertained to those Servants of God whose cause was being considered. This, however, will become clearer from what follows. Indeed, it was established that a single Cameral Printer should have the faculty to print such documents, with the number of copies limited to sixty, and no more should be produced unless by the express mandate of the Secretary of the Holy Congregation of Rites; moreover, all such copies, without exception, were to be delivered to the Promotor of the Faith, so that he might examine them and affix his seal. All of this is found in Benedict XIV, *De Servis Dei Beati et Canoniz.*, Lib. I, Cap. XIX, nn. 19, 20, 21, 22. Therefore, there were copies of documents pertaining to the causes of the Servants of God in which judgment and sentence had not yet been pronounced. And from the decree of Alexander VII, we gather this meaning from the decree promulgated by the Holy Congregation of Rites on January 30, 1878; while the Most Eminent Thomas Martinelli, of the Order of St. Augustine, a man distinguished for his doctrine, modesty, and piety, held the office of Prefect. Furthermore, there is this: "The Holy Congregation of Rites, considering the great importance of the causes of Beatification of the Servants of God and Canonization of the Blesseds, which are presented for its examination, has deemed it necessary to caution against the dangers that arise from careless actions..." (a) Benedict XIV, *De Servis Dei Beati, et Canoniz.*, Lib.

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I, Cap. XIX, n. 22.

[*Latin ed. p. 417*]

417 FROM THE HOLY CONGREGATION OF THE COUNCIL OF PARIS. DECREE REGARDING MARRIAGE DISPENSATIONS, August 21, 1897. Session 24, chapter 5, concerning marriage dispensations. In the year 1894, on July 24th, in Paris, observing the proper form, a marriage was begun between Mary Delphine, then 27 years of age, and Leo, her husband, who was ten years older. This marriage, although contracted with the full consent of both parties, did not have a happy outcome. Indeed, as the *COMPENDIUM FACTI* asserts, the spouses were never able to consummate the marriage, since the groom suffered from a nervous ailment and an umbilical hernia.

To overcome the man's impotence, as the woman stated, various remedies were employed, but these proved to be of little benefit. Nevertheless, despite this, the spouses lived together for about eight months, after which time, the woman departed from her husband, never returning to him. But Leo, after his wife's departure, disregarding the laws of the Church, appealed to the civil court, from which he easily obtained a divorce decree. Therefore, the woman, wishing to enter into a new marriage, presented petitions to the Most Holy Father, requesting that her marriage with Leo be declared null, since it was valid but not consummated due to the man's impotence. With the approval of the Supreme Pontiff, a decree was sent to the Archbishop of Paris, instructing him to conduct a process according to the norms of the Constitution of Benedict XIV and the Instructions of the Holy Congregation of the Council. After the process was completed, the records were sent to the Holy Congregation of the Council, along with a report from the Parisian judge, who, in expressing his opinion regarding the lack of consummation of the marriage, highly commended the woman. Records, Volume XXX, page 357.

[*Latin ed. p. 418*]

418. PARISIAN. A Synopsis of the DEFENSE of the Woman. The advocate for the plaintiff divides his argument into two parts, in the first of which he discusses the lack of consummation of the marriage, and in the second, the reasons for granting a dispensation. Addressing the first point, the defender notes that, according to the canons of the Church and the instructions of the Holy Congregation of the Council of the year 1840, three things are required to prove the lack of consummation of a marriage, namely, the sworn testimony of both spouses, the testimony of seven witnesses, and a medical examination of the woman. Indeed, the advocate argues, the marriage was not consummated, as evidenced by the sworn testimony of both spouses, corroborated by the excellent testimony of seven witnesses. Truly, the plaintiff, Mary Delphina, having taken an oath, made

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her deposition before the judge, affirming without hesitation: "The very evening of the marriage, Monsieur Leon manifested his antipathy towards marital duties; he left me, under the pretext of allowing me to rest, after having spent an hour near my bed. He went to sleep in another bed in another room. Around six o'clock in the morning, I called him back, and he spent a few hours with me in the same bed. He attempted the conjugal act and was unable to succeed. In the following days, he shared a bed with me, at my request, but placing a pillow between him and me. – Absolutely, I affirm, on my honor and conscience, that the marriage has never been consummated between my husband and me, and that the responsibility for this must be attributed only to my husband. He made me undergo injections once, and I submitted to them with the best will possible, hoping thereby to make the marital duty easier for him." And Leo himself also testified regarding the lack of consummation. "I affirm that the marriage has not been consummated. This responsibility falls upon me, but it is mitigated by..."

[*Latin ed. p. 419*]

PARISIAN. "419 My sickly condition, characterized by external signs that I have indicated to the doctor." How much credence should be given to this confession of the spouses? The patron proves, according to the testimony of seven witnesses, who speak with one voice, both to the spouses, and especially to the woman, regarding her singular piety, and the truth of her words; and therefore, since they assert that the marriage was not consummated, they firmly believe that they have spoken the truth, and, what is most important, they testify with such assurance and intimate conviction regarding the non-consummation of the marriage due to the husband's impotence, that they constitute a very strong argument for the non-consummation. Indeed, the orator's father, under oath, testifies that his daughter frequently visited her parental home, and that she always spoke of the same thing, even after the definitive separation, namely, that the husband frequently and fruitlessly attempted to consummate the marriage, and that the marriage remained unconsummated, and that he has absolute faith in her. He attributes this to a nervous condition and atrophy in the husband's genitals. "I attribute this behavior to Mr. Leon's nervous condition. There is a disturbance, or an atrophy, in his genitals." This is corroborated by the testimony of the actress's mother, who also testifies to the non-consummation. Furthermore, according to the orator, this is confirmed by the depositions of the doctors Topinard and Julius Bourcier, who, having been called upon by the court, not only commend the spouses for their truthful demeanor, but also fully testify to the non-consummation of the marriage. With these points established, the lawyer, for the sake of brevity, omits the sworn testimonies of other witnesses, who not only praise the piety and truthfulness of both spouses, especially the woman, but also

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demonstrate an intimate conviction regarding the non-consummation of the marriage due to the husband's impotence, he concludes that there is no doubt about the non-consummation of this marriage, since it is well-established that the sworn confession of the spouses, corroborated by the testimony of seven witnesses, is to be considered as sufficient proof of the non-consummation of the marriage, according to chapter 5, book IV, title XIV, concerning frigidity and improper acts.

[*Latin ed. p. 420*]

420. The advocate argues, indeed, that there is another, and indeed the principal, argument against consummation, for here we are dealing with a man who has, both judicially and extra-judicially, declared that the marriage was not consummated due to his impotence. Truly, the confession of the spouse provides full proof to his detriment; as Coscius teaches in *De Separatione Thori*, book 1, chapter 16, number 25. The advocate, proceeding to the argument derived from the examination of virginity, notes how, in the physical examination, everything was observed according to the Canons and the Benedictine Constitution, as well as the method of the Sacred Congregation of the Council. And with no less certainty or clarity, the other expert witness, Dr. Bucquoy, testified regarding the lack of consummation, concluding his report in this way: "She bears, in a state of complete integrity, the material signs of virginity. No effective attempt was made to accomplish the regular and complete act of conjugal union." Furthermore, the advocate observes, it is most evident from the sworn testimony of St. Stanislas that all precautions and canonical rules were observed in this examination. Moreover, according to the advocate, the reasons for moving the Pontiff's mind to grant a dispensation are not lacking, and indeed, they are very serious. For among the causes for dispensation, the advocate notes, impotence is prominent, as can be seen in Schmalzgrueber, *De Divortiis*, number 55, and in Coscius, *De Separatione Thori*, book 1, chapter 16, number 294. For, the advocate observes, through it, that principal end of marriage ceases, which consists in procreation and the extinguishing of lust. Now, if, as the most learned Sánchez teaches in *De Matrimon.*, book 2, dispute 16, number 3, "impotence supervening before the marriage is consummated is a just cause for granting a dispensation from the valid marriage, because the end of marriage ceases," how much more, the advocate notes, should dispensation be granted in the present case, where the impotence preceded? Truly, Leo.

[*Latin ed. p. 421*]

PARISIAN. It is established by the testimony of the advocate that the impotence preceded the marriage, based on the very manner in which he acted, who, being concerned, on the first night of the marriage, slept in a separate bed, using various futile pretexts, in order to, having truly ascer-

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tained his own impotence, remove the danger of showing it to his wife. "He could not kiss me," the woman testifies, "without experiencing extraordinary agitation, and even without being in a state of erection... He suffered then a very great pain because he could never achieve an erection." And the man said, "I knew the ends of marriage; I had the will to achieve them; a physical phenomenon that I did not know prevented me; this phenomenon is nervous." But, the advocate continues, he does not suffer from impotence only previously, but also perpetually. For, although Leo responded vaguely to the judge's inquiries, and did not wish to be pressed further on this point, as the very moderators of the proceedings indicate; nevertheless, there are indications in the records that there is no room for doubt about an incurable illness. For, as the advocate says, it is certain that, after the use of medicines and treatments, at least from the time of the marriage contract (in July 1894) to the denial by Doctor Bourgeois of the dispensation from professional secrecy (in June 1896), they have produced absolutely nothing. Hence, the advocate observes, in this case, more than in other cases, the doubt regarding the validity of the marriage is urgent, since it is strongly presumed that the marriage was contracted with a natural impediment that dissolves it. And this grave doubt constitutes the most urgent reason for granting a dispensation, as Cardinal De Luca De Matrim, part 2, chapter 4, paragraph 8, states. This doctrine is confirmed by the practice of the Holy Office, with numerous examples that are found in the treasury of resolutions of the same Holy Congregation. Therefore, he concludes, if the impotence alleged by Leo were sufficient to declare the marriage invalid, a fortiori, it will be valid to obtain the benefit of a dispensation. The advocate finds other reasons for a dispensation in the danger of incontinence, because the actress, in the very beginning of her youth.

[*Latin ed. p. 422*]

422. The matter concerns the fervor [of the parties], and also the invincible repugnance and aversion of the woman towards the man, and the impossibility of reconciliation. OBSERVATIONS OF THE DEFENDER OF THE SACRED BOND. On the contrary, the matrimonial bond arises from the duty of the tutor against the testimony of the doctors Ferrand and Bucquoy, who, at the order of the judge, examined the body of Maria and affirmed that she was a virgin. And first of all, the testimony of these men is of little weight, since it lacks the essential precautions to avoid fraud and deception in this most serious and difficult matter. Furthermore, according to the prescribed law, the testimony of at least five witnesses united in faith is required, who must give their testimony in such a way that each one is unaware of the testimony of the others. *Inst. S. C. C. diei 22 augusti 1840 § Procedendum et seq.* In the present case, however, only two witnesses, Ferrand and Bucquoy, have completed the matter, agreeing in

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their judgment, so that it can be said, legally, that the testimony of only one is present. Then, the defender continues, stating that the doctors, Ferrand and Bucquoy, although denying that the hymen was broken, nevertheless state that it was in such a condition that Maria could easily be compressed without injury to the hymen. And in truth, the doctor Ferrand writes: "This examination allows us to ascertain that the hymen is supple." The doctor Bucquoy reports: "The inner edge of the opening of the hymen is without resistance... This opening of the hymen can be easily traversed." With these observations, the purpose is to dispel the doubt: Whether it is necessary to consult the Most Holy [Congregation] regarding a dispensation from a marriage that is valid but not consummated in this case. RESOLUTION. The Sacred Congregation, after deliberation on August 21, 1897, decided to respond: Affirmative.

[*Latin ed. p. 423*]

4-25 MINUTES. MEETING of April 3, 1897. Session 24, item 18, concerning Patronage. A meeting was held on November 5, 1895, in the Episcopal buildings, concerning the vacant position of pastor at Ilice, in the diocese of Pinnen, a place subject to patronage. However, the meeting was adjourned for two reasons. The first reason concerned the validity of the meeting itself. It happened that, of the four candidates who were to be examined, one was prohibited from participating due to a prior impediment, namely, Florindus Partenza, the pastor serving as the economic administrator. Therefore, he appealed to the Sacred Congregation for the Clergy to protect his rights. The second reason was brought forth by Aloysius De Galitiis, one of the candidates, who complained of a bad report given about him by the examiners, because he had not been approved. Regarding the first matter, the appellant stated: that he, having been appointed by the Bishop as the administrator of the parish after the pastorate was vacant, had received royal approval; that he had presented himself at the Episcopal palace, on the day the meeting was to be held, with a prior petition, accompanied by the necessary documents; but that he had been prevented from attending the meeting. He found it surprising, after a decree previously issued by the Bishop appointing him as the administrator, in which role he had, he believed, served with merit. The Bishop explained his actions, stating: that the only necessity was the appointment of the priest Partenza as the economic administrator, because there was no other priest available in that place; and that it was not possible to send someone from outside due to the petitions of 21 priests, which the royal economic administrator collects during vacancies in parishes. The Bishop further stated that the priest Partenza was so unpopular with the people that many refused to receive the Sacraments from him and to accept his assistance in the hour of

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death.

[*Latin ed. p. 424*]

424. It happened that in Kosso, the Curia was obliged to appoint foreign priests to administer the sacrament of Baptism to newborns, whose parents had entirely refused the services of the priest of Partenza. However, as has already been mentioned, along with the request of the priest of Partenza, another request arrived from the priest of De Galitiis, concerning a negative report from the examiners. To ascertain the extent of the urgency of this complaint, the Curia requested the examination records from the competition, which were submitted to the Sacred Congregation for examination by a Consultor. After reviewing the records, the Consultor determined that it was impossible to render a judgment on the validity of the examiners' assessment, because it was not apparent by what method they had evaluated the merits of the candidates. When questioned about the method of examination, the Ordinary replied that the total number of points usually awarded in such cases was nine, that is, three for each case; and that one point was assigned to the "conciunculae" [likely referring to a specific section or aspect of the examination]; so that a candidate must obtain a minimum of 5 points to be approved; and that points for moral qualifications are only awarded if the candidate is approved in all other areas, otherwise they are postponed. The Consultor judged this method of procedure as follows: "It is most evident that this method is contrary to the prescriptions of the Sacred Council of Trent and the instructions given by this Sacred Congregation. For the examiners are required to declare the candidates suitable if they are cumulative in terms of knowledge, age, morals, and other moral qualifications. And this even more so, if I am not mistaken, when it concerns benefits of the right of patronage, as the Bishop teaches us, which is verified in this case." Having become certain of these observations by the Consultor, the Bishop inquired of the examiners whether they wished to retract their previous judgment and include the priest of De Galitiis among the approved candidates. The examiners readily agreed to do so, and the Bishop reports in his letter of May 1, 1896, that the candidate was thus approved.

[*Latin ed. p. 425*]

PINNEN. 425 A Synopsis of the Discussion: The matter under consideration involves two points of doubt: I. Whether the validity of the competition is maintained in this case, and the affirmative answer is: II. Whether there is a defect in the examination of the candidates, and how this should be addressed in the case. The validity of the competition appears to be undermined by the exclusion of the priest Partenza. For the intention of the Council of Trent, often explained by the Sacred Congregation of the Council, is to allow all to participate in the examination, so that it may be

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easier to select a suitable cleric for the vacant parish church. Hence, Fagnanus teaches in chapter "Concerning the Art of Administration," section 19, that the Bishop can even list criminals and scandalous individuals in the register of candidates, because it is his right not to approve them. In the competition held on July 22, 1850, in *S. Marci* and *Bisiniani*, § 1, it is stated: "However, the priest Partenza, although he may not seem suitable to the Bishop to be appointed to a parish church, is not shown to be guilty of a crime or scandalous, nor is he considered unworthy by the Bishop himself to be appointed as administrator of the vacant church. Furthermore, this priest had already been listed in the register of candidates when he was expelled from the examination hall. Since, at the appropriate time, he had requested to be included among the candidates, having presented all the required documents, and he received no notification of his rejection, as was proper, he was, to the astonishment and grave suspicion of collusion of all, rejected from the examination hall itself." The Council of Trent, in Session 24, chapter 18, "Concerning Reforms," decrees: "After the appointed time has passed, all those who have been listed shall be examined, etc." The Sacred Congregation of the Council has repeatedly declared that the omission of the examination of one who appeared within the prescribed time in the edict and was listed, and who was not rejected, invalidates the competition; for the proposed question is: "Whether the omission of the examination of Anthony Gnol, who appeared within the time prescribed in the edict, and who was listed and declared his willingness to undergo the examination, is contrary to the substantial form of the process."

[*Latin ed. p. 426*]

426. CONCURS. Concerning the conditions prescribed by the Holy Council of Trent, so that a valid competition may be ensured. The Sacred Congregation of Propaganda responded: The omission of the examination is contrary to the essential form established by the Holy Council of Trent in chapter 18, session 24, concerning reforms, and therefore, there is no valid competition from this point. In Tarragona, on March 18, 1635. This response is widely cited by canonists, and Pignatelli, in his *Consultations*, volume I, confirms it with numerous authorities, from which he concludes that the competition is entirely invalid whenever one of the candidates admitted to the examination is not actually admitted.

Regarding the other question, it does not appear that the relationship of the examiners was accurate according to the accepted rules, for it is customary in matters of competition for parishes that the examiners should not give a separate assessment of the candidate's knowledge, without considering other moral qualities; for the Council of Trent, in the aforementioned chapter, commands: "After the examination has been completed, those who have been judged suitable in age, morals, doctrine, prudence, and other things suitable for governing the vacant church shall be dismissed,

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and the Bishop shall choose from among them, etc." Therefore, the Sacred Congregation of Propaganda, when the examiners have judged only on knowledge, and have remitted the matter to the Bishop's judgment regarding all other qualities, has considered such a report from the examiners to be of no validity, as in Urbino, on June 15, 1605, as reported in the competition in Spoleto, on April 8, 1848, § A. And in the competition in Laren, on September 2, 1758, with the same defect in the examiners' report, the following questions were proposed, among others: II. Does a bad report from the examiners exist in this case? And, assuming an affirmative answer, III. Should a new competition be held in this case? The Sacred Congregation of Propaganda responded: To the second question, affirmatively. To the third question, affirmatively, before the Metropolitan. It does not appear that the defect of the bad report has disappeared, even though the examiners later approved, after a long interval, the priest De Galitiis, who had previously been disapproved. For it is not certain what criterion the examiners had in mind when they changed their decision; or whether they corrected their judgment concerning...

[*Latin ed. p. 427*]

427. The experiment of science, or rather, the approach to the correct standard of judgment, has been delayed. But the fault is more serious; indeed, the second error seems worse than the first. For the examiners, with such delays, have judged that they can reform their judgment, when, on the contrary, it is required that, as much as possible, the examination and report be presented in a single session. Thus, *Codex Juris Canonici*, title *De praebendis et dignitatis*, n. 62 states, "Examiners are truly obliged to give their vote before leaving the examination hall." However, today, due to the increased complexity of examinations, this is often not observed, but the intention of the regulation is maintained, namely, that the examination report should be prepared as quickly as possible, and that, once a judgment has been rendered, the examiners, whether they have performed their duties well or poorly, are not permitted to correct the judgment. Therefore, appeals are granted from the report of the examiners, but this can be rendered futile if it is left to the examiners' discretion to alter their judgment. Furthermore, the Sacred Congregation, in order to prevent useless delays and to safeguard the Church from longer impoverishment, often grants a decree of validity to acts performed in a concurrent process. Indeed, Pallotti, volume 6, title *Concursus*, § 2, 9, states, "If the acts of the concurrent process are not duly completed by the Ordinary and the Synodal examiners, the Sacred Congregation often grants a decree of validity *in limine* in Policastro, on September 18, 1745, § *Adversus*. Also, in the Lucanian process on August 26, 1854, § *Hanc* – If, however, there is doubt whether a nullity has actually been committed, a decree of validity is granted *ad cautelam*, according to the resolution in the aforementioned Policastro, on

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September 18, 1745." Furthermore, with regard to the question of doubt II, as to how to proceed in this case, it should be noted that if no acts of a concurrent process are declared, nor are they validated, but a new concurrent process is initiated, the provisions of the Constitution of St. Pius V *In conferendis* must be observed, which states, "All and each collations, provisions, and appointments, made or to be made contrary to the form prescribed by the Council of Trent, especially in the examination carried out through a concurrent process, are null, void, and of no effect, etc."

[*Latin ed. p. 428*]

428. PINNEN. and parochial churches... should be vacant... and those churches thus vacant should be reserved for the disposition of the Apostolic See. Furthermore, Fagnanus, in chapter "Cum sit ars, De aetate et qualitate praefectorum," number 55, states: "The Sacred Congregation, consulted by the Bishop of Carthage, concerning whether a competition and examination for parochial positions, conducted by three or four synodal examiners, together with three or four other examiners appointed by the Ordinary, is contrary to the decrees of the Council of Trent, and whether provisions for such parochial positions thus made by the Ordinary are null and void and reserved to the Apostolic See; responded that it is contrary to the prescription of the Council of Trent, and has no validity, and that the collation [of the benefice] is subject to the Apostolic See by virtue of the Constitution of Pius V." And therefore, if a new competition is held, according to the general norms for the reservation of positions, the acts of the new competition must be transmitted to the Dataria, which will itself deliberate as to whom the benefice should be conferred; thus, see Santi, J., c., n. 61. With these considerations, the following questions were proposed: I. Whether the competition can be maintained in this case. And, in the affirmative: II. Whether there is evidence of a bad relationship between the examiners, and how provision should be made in this case. RESOLUTION. The Sacred Congregation, after deliberation on April 3, 1897, decided to respond: Regarding I and II; considering the particular circumstances presented in this case, it is advisable to petition the Most Holy Father for the validation of the competition (1). (1) See Recole, Vol. XI, 125; where it is stated that it is the jurisprudence of the Sacred Congregation that the examiners have the burden of assessing both the doctrine and other qualities and requirements of the candidates, so that, considering all things together, they may be able to judge their suitability. Those who wish to know more about competitions should consult Vol. VII, 340 to 579; Vol. IX, 236; Vol. X, 127.

[*Latin ed. p. 429*]

FROM CHAPTER 3, CONGREGATION OF RITES OF ANGERS. Concerning the beatification and canonization of the venerable Servant of God,

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Sister Mary of Saint Euphrasia Pelletier, foundress of the Sisters of the Good Shepherd. Among the many religious women whom the most merciful God raised up in the preceding century in the midst of the French nation, where Christian and civil society had suffered grievous wounds inflicted by wicked men, and which could only be healed by religion and charity, the Servant of God, Mary of Saint Euphrasia Pelletier, shone forth like a star, the foundress of the Congregation of the Sisters of the Good Shepherd. The island of Noirmoutier and the diocese of Luçon rightly rejoice in the birth of this Servant of God, where she was born on July 31, 1796, to pious and honorable parents, Julian and Anne Mourin, and was given the name Rose Virginia in the sacred rite of baptism. A diligent student of heavenly things and constantly devoted to exercises of piety, both at home and in church, she showed a particular devotion to Saint Philibert, the patron of that island. She devoted herself so diligently to learning the sacred scriptures and Christian catechism that she deserved a special reward for her youthful efforts. At the age of thirteen, she lost her father, and for nearly two years she remained to comfort her widowed mother. Then, sent to Tours, she entered the house of Madame Choblet and had the distinguished Madame de Lignac, a former teacher and then the superior of the Ursuline nuns, as her mistress, who recognized Rose Virginia's talents and virtues and praised them. Shortly after, in that place, the beloved girl was orphaned by the death of her mother, which, however, added stimulus to her holy purpose to embrace a new state of life in the Congregation of Our Lady of Charity. She learned to win souls to Christ through the books and writings of Saint Therese, and, with the help of suitable counsel, and with God's favor, on October 20, 1814, she left the house of Madame Choblet and went to the nearby house of the Refuge. However, for some time, the tutor, Monsieur Marceau, opposed the girl's wishes, so that the divine vocation might be more clearly manifested and the Servant of God's purpose more firmly established. But the most auspicious day of the Nativity of the Blessed Virgin arrived in 1815, when this dove, hearing the voice of the divine bridegroom, flew to Him. Then she received the name Mary of Saint Euphrasia, along with the religious habit, and after completing a two-year novitiate with distinction, she also pronounced her religious vows with great joy. Afterward, she became a teacher of piety for penitent women, and later, although younger than the others, she was appointed superior of the house itself. Meanwhile, she established a cloistered community of women, founded by Saint Magdalene, and provided it with suitable rules. In the city of Angers, with funds left by a legacy and entrusted to the vigilant Bishop, she laid the foundation of a house of the Refuge, and she not only saw it built, but also began to live in it with five sisters in 1829. Returning to Tours

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to fulfill her mission, for...

[*Latin ed. p. 430*]

EX. S. G. RITUUM 430, having still presided over the religious house, as soon as she could, in the year 1831, she visited the house in Angers, governed it, and augmented the sacred edifice. She also expanded the institute of Our Lady of Charity, and the community of Saint Magdalene, and in a short time, she established other associations: one of Providence for orphaned girls, another for the preservation of young women in danger, and a third dedicated to the Blessed Virgin Dolorous for women consecrated in a community of penitents. These foundations also began to grow in other dioceses of Gaul, through the work and efforts of the Servant of God, with the support of the local Ordinaries. At the beginning of the year 1835, in order to maintain unity, with the approval of the Holy Father, Pope Gregory XVI, through Apostolic Letters, the entire congregation, now called the Congregation of the Good Shepherd, was given a general superior, and the principal house and seat of training was established in the city of Angers. The joy of the Servant of God was increased when she was summoned to Rome and, at her own request, revealed her devoted and grateful sentiments to the same Pontiff; and, having received the Apostolic Blessing in that venerable city, she saw to the care and administration of the women residing in institutions under the care of her Congregation, under the auspices of that Prince of Justice and of Wisdom. Returning to Angers, always concerned for the strength and growth of her Congregation, for which she never spared cares or labors, she was gradually consumed by a cruel disease of cancer, and, after receiving the sacraments of the Church, she fell asleep in the Lord on April 24, 1868, leaving behind one hundred and ten religious sisters and nearly nineteen thousand students from the principal institute and from other communities of the Congregation of the Good Shepherd, as her inheritance. When the fame of holiness, which the Servant of God had acquired even while living, increased more and more after her death, the Ordinary process was duly completed and brought to the city, and presented to the Congregation of Sacred Rites. Hence, at the humble prayers of the Most Reverend Mr. Anthony Savelli Spinola, Promoter of the Cause, Our Most Holy Lord Pope Leo XIII, through decrees of February 11 and May 17, 1895, having approved the writings of the Servant of God, so that further steps could be taken, deigned to dispense with the intervention and vote of the Consultors regarding the introduction of the Cause into the Ordinary Congregation, by proposing and discussing the following question. Therefore, at the request of the aforementioned Promoter, and also in the name of the entire Congregation of sisters of the Good Shepherd, and considering the postulatory letters of several Most Reverend Cardinals and numerous Sacred Prelates and Chapters of Cathedrals, as well as religious communities, pious associations, and illustrious men from various regions,

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the Cardinal Prefect of the Congregation of Sacred Rites and Relator of this Cause, in Ordinary meetings held at the Vatican on the date indicated below, proposed the following question to be discussed: "Is a commission to be appointed for the introduction of the Cause, in this case and for the purpose in question?" And the Most Reverend Fathers, entrusted with the preservation of the Sacred Rites, after...

[*Latin ed. p. 431*]

FROM the Acts of the Sacred Congregation of Rites, 451, concerning the petition of the undersigned Cardinal, after hearing the Reverend Father John Baptist Lugari, Promoter of the Holy Faith, and after careful consideration, it was decided to write: "Affirmative, or to approve the petition if it pleases the Most Holy Lord." December 7, 1897. Subsequently, these matters were presented to Our Most Holy Father Leo XIII by the undersigned Cardinal, and His Holiness, approving the decree of the Sacred Congregation of Rites, deigned to sign the commission for the introduction of the cause of the Venerable Servant of God, Mary of Saint Euphrasia Pelletier, on the eleventh day of the same month and year.

CAMILLUS CARD. MAZZELLA, Prefect of the Sacred Congregation.

L. * S. DIOMEDES PANICI, Secretary of the Sacred Congregation.

DECREE concerning the veneration to be given to the Holy Thorn from the Crown of Our Lord Jesus Christ.

The Reverend Provincial of the Observant Order of the Friars Minor of the Province of Calabria humbly presented the following to the Sacred Congregation: In the Convent of the Observant Friars Minor of Saint Francis, near Petilia, Policastro, and in the Province of Calabria, the Holy Thorn from the Crown of Our Lord Jesus Christ, stained with His Precious Blood, has been venerated for three centuries. It was once legally recognized and approved by the Most Reverend Archbishop of Saint Severina, in whose diocese the town of Oppido is located. This Holy Relic, when exposed for the veneration of the faithful, is usually placed above the altar where the Most Holy Sacrament is reserved, and those passing before it bend their knees; and the priests, celebrating before it, perform all that is usually done before the Most Holy Sacrament exposed. The same Reverend Provincial, during his canonical visitation, considered that all of these things were appropriate only for the Most Holy Eucharist, according to ecclesiastical custom, and ordered that they be discontinued, and that everything be done according to the procedure of the decrees of the Sacred Congregation of Rites. This caused some distress, and in order to eliminate, in this case, all abuses more effectively, and to give due honor to the Holy Thorn of Our Lord Jesus Christ, the aforementioned Orator earnestly requested the same Sacred Congregation:

I. Whether the aforementioned practices can be approved, or at least

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tolerated?

II. And, if not, what is the legitimate form of veneration that should be given to this Holy Thorn?

And the Sacred Congregation, after hearing the aforementioned Secretary and considering the matters presented, decided to respond to both requests as follows: "Let the decrees be observed, especially the decree issued in Trent, dated March..."

[*Latin ed. p. 432*]

From the Sacred Congregation of Rites, document 432, section 1836, (1), and other considerations concerning the exhibition of relics and the prescriptions for the Relics of the Precious Cross and other instruments of the Lord's Passion." And it is written thus: On September 17, 1897, by LUCIDUS M., Cardinal; PAROCCHI L. & S., of DIOMBDES PANICI, Sacred Congregation of Rites, Secretary. OF THE CITY AND THE WORLD. It is granted to the Congregation of Clerics Regular of St. Paul, the Barnabites, to celebrate the feast day of St. Anthony of Mary Zaccaria on July 5th. In response to the most humble petitions of the Most Reverend Aloysius Cacciari, General Procurator and Postulator of the Congregation of Clerics Regular of St. Paul, the Barnabites, presented to the Prefect of the Sacred Congregation of Rites, the Most Holy Pope Leo XIII, after consultation with the aforementioned Sacred Congregation, deigned to grant that, transferred to July 7th, or, if that is impossible, to the first day following, according to the rubrics, the feast day of St. Anthony of Mary Zaccaria, Confessor, with the Office of Comm. Conf. non Pont., and the readings of the First Nocturn, from Scripture, and the Second and Third Nocturns, with the proper prayers and Mass, already approved and granted to the aforementioned religious Congregation, be celebrated on July 5th by the entire Church, under the lesser double rite, each year after the year 1898. Furthermore, the same Most Holy Pope ordered that the aforementioned Office with the Mass of St. Anthony of Mary Zaccaria, under the aforementioned rite, be inscribed in the Universal Calendar and in new editions of the Roman Breviary and Missal henceforth. Contrary decrees notwithstanding. On December 11, 1897. C. CARD. MAZZELLA E P. of PRAENESTIN. Sacred Congregation of Rites, Prefect. L. * S. D. PANICI, Sacred Congregation of Rites, Secretary. (1) The decree in Trident, section 1, declares that the Relic of the Holy Cross should not be exposed above the Tabernacle, where the Eucharist is reserved. The other, in Varsavia, section 12, declares that, before the Relic of the Holy Cross, exposed in the principal place on the altar, a single genuflection should be made. These are also confirmed by other decrees.

[*Latin ed. p. 433*]

433 ADDITIONS AND VARIATIONS to be introduced in the general and special rubrics of the Roman Breviary and Missal, according to the

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Decree of December 2, 1897. ADDITIONS AND CHANGES TO BE MADE IN THE GENERAL RUBRICS OF THE ROMAN BREVIARY. I. Concerning the Double Office. No. 2. A Double Feast is celebrated, or a commemoration of it is made, on the day it falls, unless it happens to be transferred, as will be said in the rubric concerning the Transfer of Feasts. No. 6. The prayers for the First Hour and the Completion, and the Supplications for Holy Mary, Saint Joseph, the Apostles, and Peace, are not recited at Vespers and Lauds in the Double Office, as will also be said in their own rubrics. No. 2. A Double Feast is celebrated, or a commemoration of it is made, on the day it falls, unless it happens to be transferred "or entirely omitted," as will be said in the rubric concerning the Transfer of Feasts. No. 6. The prayers for the First Hour and the Completion, and the Supplications for Holy Mary, Saint Joseph, the Apostles, "the Title," and Peace, are not recited at Vespers and Lauds in the Double Office, as will also be said in their own rubrics. II. Concerning the Semi-Double Office. No. 2. A Semi-Double Feast is celebrated on the day it falls, or a commemoration of it is made, as will be said in the rubric concerning the Transfer of Feasts. No. 2. A Semi-Double Feast is celebrated on the day it falls, or a commemoration of it is made, "or entirely omitted," as will be said in the rubric concerning the Transfer of Feasts. IV. Concerning Sundays. No. 1. The Office for Sunday is always celebrated on Sundays of Advent, and on Sundays from Septuagesima until the Sunday in Albis, inclusive, whatever Double or Semi-Double Feast may occur: because then the Feast is transferred, or a commemoration of it is made (as will be said in the rubric concerning the Transfer of Feasts), unless that Feast is of the principal Title or Patron of some Church, or place, or the Dedication of a particular Church; because then, of such a Feast, there is only a celebration in the Church or place of which it is the Title or Patron, or Dedication, together with the commemoration of the Sunday; with certain Sundays excepted, as will be said in the rubric concerning Commemorations. The same is observed with regard to other Feasts of the first class, occurring on the aforementioned Sundays. On other Sundays throughout the year, the Office for Sunday is celebrated, etc. Acts, Vol. XXX, page CCCLV. No. 1. The Office for Sunday is always celebrated on Sundays of Advent, and on Sundays from Septuagesima until the Sunday in Albis, inclusive, whatever Double or Semi-Double Feast may occur: because then the Feast is transferred, or a commemoration of it is made "or entirely omitted" (as will be said in the rubric concerning the Transfer of Feasts), unless that Feast is "of the first class"; because then "there is only" a celebration of such a Feast, together with the commemoration of the Sunday; with certain Sundays excepted, as will be said in the rubric concerning Commemorations. On other Sundays throughout the year, the Office for

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Sunday is celebrated, etc. 28

[*Latin ed. p. 434*]

454. EXTRAORDINARY RITUAL, SECTION VII. Concerning Octaves. No. 3. As will be stated in the same rubric concerning the Translation of Feasts, within the Octave of Epiphany, only matters pertaining to the Patron or Titular Saint of the Church, and the dedication of the same (but not on the day of the Octave itself), are observed, along with the commemoration of the Octave. Within the Octave of the Body of Christ, etc. No. 3. As will be stated in the same rubric concerning the Translation of Feasts, within the Octave of Epiphany, only "Doubles of the first class" (but not on the day of the Octave itself) are observed, along with the commemoration of the Octave. Within the Octave of the Body of Christ, etc.

VIII. Concerning the Office of Saint Mary on Saturday. No. N.S. (Nota Sacra – Sacred Note). The Lord's Prayers are said at Prime and Compline, and the customary prayers are offered for Saint Joseph, for the Apostles, and for Peace. During the Paschal season, only the commemoration of the Conss is observed, as on the second day after the Octave of Easter. After Nones, nothing further is observed concerning it, except for its customary commemoration, along with the other prayers, when they are to be said in the Office of Sunday. No. N.S. The Lord's Prayers are said at Prime and Compline, and the customary prayers are offered for Saint Joseph, for the Apostles, "for the Title," and for Peace. During the Paschal season, only the commemoration of the Cross is observed, as on the second day after the Octave of Easter. After Nones, nothing further is observed concerning it, except for its customary commemoration, along with the other prayers, when they are to be said in the Office of Sunday.

IX. Concerning Commemorations. No. 8. Commemorations are observed in this manner: After the daily prayer, in the First Vespers, the Antiphon which is appointed after the Magnificat is said, and in the Lauds, the Antiphon which is appointed after the Benedictus is said, in the Common (if it does not have a proper one) that is appropriate for the Office of which the commemoration is made. After the Antiphon, a verse is said, which is to be taken from the same source from which the Antiphon was taken, namely, after the Hymn of the Vespers and Lauds: then the prayer is said. If the Antiphon and Verse of the feast for which the commemoration is made should be taken from the same Common, from which they are taken in the Office of the day, then in the feast of the commemoration, they are varied, so that in the Vespers they are taken from the Lauds, and in the Lauds from the First Vespers of the same Common, unless otherwise indicated. And likewise, if in the Second Vespers of the feast of Saint Agatha, or of another Saint, a commemoration of the Blessed Virgin Mary must be made, for her Office to be celebrated on the following Saturday, so that it is not repeated. "The grace is diffused, say: 'Blessed

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are you,' from the Lauds."

If it should also occur that the same No. 8. Commemorations are observed in this manner: After the daily prayer, in the First Vespers, the Antiphon which is appointed after the Magnificat is said, and in the Lauds, the Antiphon which is appointed after the Benedictus is said, in the Common (if it does not have a proper one) that is appropriate for the Office of which the commemoration is made. After the Antiphon, a verse is said, which is to be taken from the same source from which the Antiphon was taken, namely, after the Hymn of the Vespers and Lauds: then the prayer is said. If the Antiphon and Verse of the feast, "simple," for which the commemoration is made, should be taken from the same Common, from which they are taken in the Office of the day, then in the feast of the commemoration, they are varied, so that in the Vespers they are taken from the Lauds, and in the Lauds from the First Vespers of the same Common, unless otherwise indicated. "If, however, the Antiphon and Verse of the feast, written in the manner of a simple feast, should be taken from the same Common, from which they are taken in the Office of the day, then in the First Vespers the Antiphon and Verse are taken from the Second; if the feast has both Vespers, in the Lauds from the First Vespers, and in the Second—"

[*Latin ed. p. 435*]

The prayer for the feast for which the Office is celebrated, and for that for which commemoration is made, should be changed. If the commemoration is of a time, that is, of a Sunday or a weekday, the antiphon and verse before the prayer should be taken in the same manner from the proper of the time, if it has one; otherwise, from the Psalter. The prayer itself should be from the proper of the time.

N. II. When several commemorations occur, this order should be observed. For a double feast, even if it is treated as a simple one, it is placed before the Sunday; for a Sunday, before the feast of the half-double; for a half-double, even when reduced to the manner of a simple feast, before the day within the Octave; for a day within the Octave, before the weekdays of Advent, of the four seasons, of the Vigils, and of the Rogations, and for these weekdays before the feast, a simple commemoration. For the feast of the holy Mary (when, in the second Vespers of the feast, there are nine readings, which is celebrated on a Friday, the commemoration for the Office of the following Saturday must be made), a simple commemoration is made on the Saturday that occurs before the feast. For a simple feast, the commemoration is made before the Suffrages, or the common commemorations. At the Vespers, the antiphon is taken from the Lauds, and the verse from the first Vespers, unless otherwise indicated: except in the case when the commemoration of some Saint is to be made on the feast of another Saint; then, in the first Vespers for the Saint for whom the commemoration is made, the antiphon should be taken from the Lauds. When, however,

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a feast is to be commemorated as a simple feast, and the commemoration in the second Vespers is for a double feast, or for the first or second class immediately following, then it is done as stated above for simple feasts. And similarly, if it is necessary to make the commemoration of the blessed Mary in the second Vespers of the feast of Saint Angela of the Cross, or of another Saint with nine readings, for her Office to be celebrated on the following Saturday, so that it is not repeated, then the following should be said: "Benedicta tu," from the Lauds.

If, also, it happens that the prayer of the feast for which the Office is celebrated, and that for which the commemoration is made, are the same, the prayer for the commemoration should be changed to another common prayer. If the commemoration is of a time, that is, of a Sunday or a weekday, the antiphon and verse before the prayer should be taken in the same manner from the proper of the time, if it has one; otherwise, from the Psalter. The prayer itself should be from the proper of the time.

N. II. "When several commemorations occur, those which pertain to the Office should always be placed first, whatever the rite; except for those which are never separated from the Office of which they are spoken, such as that of Saint Paul the Apostle in the Chair of Saint Peter, etc., as will be said in the special rubrics in their proper place. Then, this order should be observed: 1. For a privileged Sunday, 2. for the day of the Octave, 3. for a greater double, 4. for a lesser double, reduced to the manner of simple feasts, 5. for a common Sunday, 6. for the day within the Octave of Corpus Christi, 7. for a half-double, 8. for a day within the Octave, common in rank, also reduced to the simple rite, 9. for a greater or Vigil weekday, 10. for a simple feast."

[*Latin ed. p. 436*]

436 FROM THE SACRED RITUAL concerning the Cross, the Holy Virgin Mary, Saint Joseph, the Apostles, and the Office for the Dead, and before any commemoration of a particular title or patron saint of a church, which should also be given precedence over the other aforementioned Offices according to its dignity. Concerning these Offices, how and when they are to be performed, see the appropriate section below. If, on a feast day that occurs on a Friday, nine readings are to be read, as is customary on that day, the commemoration for the following Sunday's Office should be performed before the feast. For a simple feast, the commemoration is performed before the Offices, namely the common commemorations for the Cross, the Holy Virgin Mary, Saint Joseph, the Apostles, and the Office for the Dead, and before any commemoration of a particular title or patron saint of a church, which should also be given precedence over the other aforementioned Offices according to its dignity. Concerning these Offices, how and when they are to be performed, see the appropriate section below. X. Concerning the Transfer of Feast Days. N. 1. If any Double Feast

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occurs on Sundays of Advent, and on Sundays from Septuagesima until the Sunday after the Octave of Easter, inclusive, on the Vigil of the Nativity of the Lord, on the Feast of the Circumcision, throughout the Octave of Epiphany, on the fourth day of Lent, throughout the Greater Week, and within the Octave of Easter, on the Feast of the Ascension, on the days from the Vigil of Pentecost until the Feast of the Most Holy Trinity, inclusive, on the Feast of Corpus Christi and its Octave, on the Feast of the Immaculate Conception and the Assumption of the Blessed Virgin Mary, on the Feast of Saint Joseph, her spouse, and on the Feast of All Saints; it is transferred to the first day that is not impeded by a Double or Semi-Double Feast, except for the Feast of the Nativity of Saint John the Baptist, and of the Holy Apostles Peter and Paul, which are celebrated on the Octave of Corpus Christi: except also for any solemn feast of a particular place, which is celebrated only in that church, even if it occurs on some of the aforementioned days, namely on the second, third, and fourth Sundays of Advent, and on the Sundays of Septuagesima, Sexagesima, and Quinquagesima, and on the days within the Octave of Epiphany (as is stated in the section concerning Commemorations). If, however, the Feast of the Purification of the Blessed Virgin Mary. N. 1. If any Double Feast occurs on Sundays of Advent, and on Sundays from Septuagesima until the Sunday after the Octave of Easter, inclusive, on the Vigil « and Feast » of the Nativity of the Lord, on the Feast of the Circumcision, on « the Feast and » throughout the Octave of Epiphany, on the fourth day of Lent, throughout the Greater Week, and within the Octave of Easter, on the Feast of the Ascension, on the days from the Vigil of Pentecost until the Feast of the Most Holy Trinity, inclusive, on the Feast of Corpus Christi, and its Octave, on the Feast « of the Most Sacred Heart of Jesus, on the Feasts » of the Immaculate Conception, « the Annunciation » and the Assumption of the Blessed Virgin Mary, « on the Nativity of Saint John the Baptist », on the Feast of Saint Joseph, the spouse « of the same Blessed Virgin Mary, of the Holy Apostles Peter and Paul », and on the Feast of All Saints, it is transferred to the first day that is on not impeded by a Double or Semi-Double Feast, except for the Feasts of the Nativity of Saint John the Baptist, and of the Holy Apostles Peter and Paul, which are celebrated on the Octave of Corpus Christi « and on the Feast of the Most Sacred Heart of Jesus »: except also for any solemn feast of a particular place, which is celebrated only in that church, even if it occurs on some of the aforementioned days, namely on the second, third, and

[*Latin ed. p. 437*]

If a feast day falls on a Sunday of the second class, it is transferred to the following Tuesday, even if that day is a feria. "The same applies to the Feast of the Annunciation of the Blessed Virgin Mary." Also, if the Feast of the Nativity of Saint John the Baptist falls on the Feast of Corpus Christi, it is transferred to the following day, with the commemoration of the Octave;

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on the second Vespers of Corpus Christi, only the commemoration of Saint John is observed; on the following days, the Office of the same Octave of Corpus Christi is celebrated, with the commemoration of the Octave of Saint John. However, if the Octave of Saint John falls on the Octave of Corpus Christi, it is not transferred, but rather, on that day, only the commemoration of it is observed in both Vespers and Lauds of the Octave of Corpus Christi; and this must always be observed when a feast day with an Octave is transferred: so that, therefore, the day of the Octave is not transferred, but rather, on that very day, the commemoration of it is observed, as it would have been if the feast day had not been transferred. However, if a feast day is transferred after its entire Octave has passed, it is celebrated that year without the Octave, unless the titular church has a privilege that requires otherwise. Minor feasts of the second class, with the exception of the feasts of the Doctors of the Church, if they occur on a Sunday or are otherwise impeded by a major feast or Office, are not transferred, but are observed on the day they fall, with a commemoration in both Vespers and Lauds, and the ninth historical reading is read at Matins, if that is possible; otherwise, such minor feasts of the second class are completely omitted that year, as stated in the preceding rubric, numbers 7 and 10, and as will be explained below regarding the Simple Office, number 8. The same rules apply to other feasts of the second class for which there is no opportunity for transfer throughout the entire year. The feasts of the Fourth Sunday of Advent, and of Quinquagesima, Sexagesima, Septuagesima, and the days within the Octave of Epiphany (as stated in the rubric regarding Commemorations), "and except for the primary solemn feast on the Feast of the Most Sacred Heart of Jesus," are celebrated. If the Feast of the Purification of the Blessed Virgin Mary falls on a Sunday of the second class, it is transferred to the following Tuesday, even if that day is a feria. Also, if the Feast of the Nativity of Saint John the Baptist falls on the Feast of Corpus Christi, it is transferred to the following day, with the commemoration of the Octave; on the second Vespers of Corpus Christi, only the commemoration of Saint John is observed; on the following days, the Office of the same Octave of Corpus Christi is celebrated with the commemoration of the Octave of Saint John. However, if the Octave of Saint John falls on the Octave of Corpus Christi, it is not transferred, but rather, on that day, only the commemoration of it is observed in both Vespers and Lauds of the Octave of Corpus Christi; and this must always be observed when a feast day with an Octave is transferred; so that, therefore, the day of the Octave is not transferred, but rather, on that very day, the commemoration of it is observed, as it would have been if the feast day had not been transferred. However, if a feast day is transferred after its entire Octave has passed, it is celebrated that year without the Octave, unless the titular church has a privilege that requires otherwise. Minor feasts of the second class, with the exception of the feasts of the Doctors of the

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Church, if they occur on a Sunday or are otherwise impeded by a major feast or Office, are not transferred, but are observed on the day they fall, with a commemoration in both Vespers and Lauds, and the ninth historical reading is read at Matins, if that is possible; otherwise, such minor feasts of the second class are completely omitted that year, as stated in the preceding rubric, numbers 7 and 10, and as will be explained below regarding the Simple Office, number 8. The same rules apply to other feasts of the second class for which there is no opportunity for transfer throughout the entire year.

[*Latin ed. p. 438*]

458 FROM THE SACRED CONSTITUTION ON RITES, N. 5. A semi-double feast falling on the aforementioned days, and within the Octave of Corpus Christi, and on other Sundays throughout the year, is not transferred, but is observed on the very day it falls, with a commemoration in both Vespers and Lauds, and the historical reading is read, or it is entirely omitted, as mentioned above concerning the lesser double. N. 6. If two or more feasts of nine readings coincide on the same day, the office of the greater feast, that is, the double, is celebrated, and a commemoration is made of the semi-double, as mentioned above. But if all are doubles, or all are semi-doubles, the office of the more solemn feast is celebrated, "namely, of the feast of greater rank over a feast of lesser rank, or in equality of rank, of the primary feast over the secondary feast, or, among feasts of equal rank, of the feast concerning a person of greater importance, or, in equality of importance, of the fixed feast over the movable feast, or finally, all other things being equal, of the feast more proper to the place over the less proper feast"; and those doubles of lesser solemnity, if they can be transferred, are transferred; otherwise, a commemoration is made of them, "or they are entirely omitted," as explained above. N. 7. If several double feasts that can be transferred are to be transferred, the more solemn one is always transferred first and celebrated first; otherwise, if they are equal, one is transferred before the other, in the order in which they would have been celebrated on their proper days: "and this rule is also observed."

[*Latin ed. p. 439*]

From the Sacred Ritual, 459, it is stated: "In feasts of the first and second class, and perpetually in feasts of the third class, [certain offices] are prohibited." XI. Concerning the Concurrence of Offices. N. 4. When a feast of the third class, a Sunday, or a day within the Octave coincides with the following feast of the first class, everything pertaining to the feast of the first class is observed, along with the commemoration of the former, unless the feast of the first class belongs to the number of major feasts, which are enumerated above in the section concerning commemorations, in which case no commemoration of the preceding feast is made. When a feast of

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the third class coincides with another feast of the third class, or with a Sunday, "or with a day within the Octave," the office of the following feast is observed, and the commemoration of the preceding feast is made, unless otherwise indicated. However, when a feast of the third class coincides with the following simple feast, or with the Office of the Blessed Virgin Mary on Saturday, everything pertaining to the feast of the third class is observed, along with the commemoration of the following. N. 6. When a day within the Octave coincides with the following Sunday, the office of the following Sunday is observed, along with the commemoration of the Octave. "However, when a day within the Octave coincides with the following feast of the third class, Vespers are observed for the following feast, along with the commemoration of the Octave." A day within the Octave does not properly coincide with a simple feast, because on the following day within the Octave, only the commemoration of the simple feast is observed, and for the same reason, this commemoration should be observed on the preceding day within the Octave. N. 7. When one Octave coincides with another Octave, "under all other circumstances," the office of the following Octave is observed, along with the commemoration of the preceding Octave, except for the Octave of Corpus Christi, which coincides with the Octave of Saint John the Baptist, in which case only the commemoration of the following Octave is observed, and when otherwise indicated in the proper places. When an Octave coincides with the following feast of the second class, even if it is transferred, "under all other circumstances," the office of the following feast is observed, along with the commemoration of the Octave (except for the days of the Octaves of the feasts of the Blessed Virgin). N. 4. When a feast of the third class, a Sunday, and a day within the Octave coincide with the following feast of the first class, everything pertaining to the feast of the first class is observed, along with the commemoration of the former; unless the feast of the first class belongs to the number of major feasts, which are enumerated above in the section concerning commemorations, in which case no commemoration of the preceding feast is made. When a feast of the third class coincides with another feast of the third class, "or" with a Sunday, the office of the following feast is observed, and the commemoration of the preceding feast is made, unless otherwise indicated. "However, when the same feast of the third class coincides with the following day within the Octave, Vespers are observed for that day, along with the commemoration of the Octave." However, when a feast of the third class coincides with the following simple feast, or with the Office of the Blessed Virgin Mary on Saturday, everything pertaining to the feast of the third class is observed, along with the commemoration of the following. N. 6. When a day within the Octave coincides with the following Sunday, the office of the following Sunday is observed, along with the commemoration of the Octave. "However, when a day within the Octave coincides with the following feast of the third class, Vespers

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are observed for the following feast, along with the commemoration of the Octave." A day within the Octave does not properly coincide with a simple feast, because on the following day within the Octave, only the commemoration of the simple feast is observed, and for the same reason, this commemoration should be observed on the preceding day within the Octave. N. 7. When one Octave coincides with another Octave, "under all other circumstances," the office of the following Octave is observed, along with the commemoration of the preceding, except for the Octave of Corpus Christi, which coincides with the Octave of Saint John the Baptist, in which case only the commemoration of the following is observed, even if the feast of the first class, the Most Sacred Heart of Jesus, occurs; and when otherwise indicated in the proper places. When an Octave coincides with the following feast of the second class, even if it is transferred, "under all other circumstances," the office of the following feast is observed.

[*Latin ed. p. 440*]

(The following pertains to the liturgical rubrics, even those particular to certain religious orders, in which the following is merely mentioned.) When the following day is a Double Major, even if transferred, the entire Office is said of the following, with the commemoration of the Octave, except for the Octaves of the Epiphany, Easter, Ascension, and the Body of Christ, in which the following is merely mentioned. However, if the following feast, even if transferred, is one of the more solemn feasts listed in the rubric concerning commemorations in the second order, number 6, the entire Office is said of the following, with the commemoration of the Octave. The title is said of the following... with the commemoration of the Octave (except for the Octaves of the "major feasts" of the blessed Virgin Mary, even those particular to another religious order, "of the Angels, of Saint John the Baptist, of Saint Joseph, Spouse of the blessed Virgin Mary, and of the Saints Apostles," in which the following is merely mentioned). When the following day is a Double Major, even if transferred, the entire Office is said of the following with the commemoration of the Octave, except for the Octaves of the feasts of the Lord and of the blessed Virgin Mary, as mentioned above. If, however, the following feast, even if transferred, is one of the more solemn feasts listed in the rubric concerning commemorations in the second order, number 6, the entire Office is said of the following, with the commemoration of the Octave. "In all other cases, when the Octave coincides with another Octave, the complete Vespers are said of that Octave which is of higher rank, either by reason of being a feast of greater importance, or of being a feast of a more distinguished person, with the commemoration of the other. When it coincides with a Double feast, Vespers will be said either of the Octave, or of the Double, with the commemoration of the other, as has been said concerning Octaves that coincide with each other; except for the Octaves of the feasts of the Lord

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and of the blessed Virgin Mary, as mentioned above." XII. Concerning the ordering of the Office according to the aforementioned rubrics. No. 5. On the feasts of the blessed Virgin Mary (omitting those which have their own proper readings), hymns, nine Psalms, and other things required are taken from the common Office at the end of the Breviary. No. 6. On the feasts of the blessed Virgin Mary ("excepting" those which have their own proper readings), hymns, nine Psalms, and other things required are taken from the common Office at the end of the Breviary, "which is inscribed: In the feasts of the blessed Virgin Mary throughout the year." XX. Concerning the hymns. No. 3. Hymns are said in the Office of the Divine Time as in the Psalter, when proper hymns are not found in the Proper of the Time. Those hymns from the Psalter are said in the...

[*Latin ed. p. 441*]

From the Sacred Ritual, paragraphs 441, concerning feasts and weekdays, these are observed from the Octave of Pentecost until the Feast of the Annunciation (excluding the Sunday within the Octave of Corpus Christi) and from the Octave of the Epiphany until the First Sunday of Lent, inclusive. In the Office of the Saints, they are observed as in the Common of the Saints, unless proper hymns are found in the Proper of the Saint. Feasts and weekdays are observed from the Octave of Pentecost until the Feast of the Annunciation (excluding the Sunday within the Octave of Corpus Christi) and from the Octave of the Epiphany until the First Sunday of Lent, inclusive. In the Office of the Saints, they are observed as in the Common of the Saints, unless proper hymns are found in the Proper of the Saint.

"When three proper historical hymns are present in a particular feast, and a proper hymn cannot be recited at the First Vespers, then this hymn is recited at Matins, the Matins hymn at Lauds, and the Laud hymn at the Second Vespers; if, however, the Second Vespers are not of this feast, then the Vespers hymn is joined with the Matins hymn under a single conclusion." No. 4.

From the Nativity of Our Lord until the Epiphany, on the Feast of Corpus Christi and throughout the Octave, and at any time when the Office of the Blessed Virgin Mary, whether of nine or three Lessons, is celebrated, even during the Paschal season, at the end of all the hymns (except at the end of the hymn *Ave Maris stella*, and the hymns at Lauds on the Feast of Corpus Christi, which have the final verse proper) the following is said: "Jesus, to you be glory, who were born of a Virgin," as in the Little Office, even if hymns of the Saints are recited, which are celebrated within the aforementioned Octaves, provided that these hymns are of the same meter and do not have a final proper verse, such as the hymn of the Holy Cross at Vespers, and of many Martyrs at Matins.

No. 4. From the Nativity of Our Lord until the Epiphany, on the Feast of Corpus Christi and throughout the Octave, and at any time when the Office

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of the Blessed Virgin Mary, whether of nine or three Lessons, is celebrated, even during the Paschal season, at the end of all the hymns (except at the end of the hymn *Ave Maris stella*, and the hymns at Lauds on the Feast of Corpus Christi, "and the hymns on the Feast of the Seven Sorrows of the Blessed Virgin Mary in the month of September," which "have" a final proper verse) the following is said: "Jesus, to you be glory, who were born of a Virgin," as in the Office "throughout the year," even if hymns of the Saints are recited, which are celebrated within the aforementioned Octaves, provided that these hymns are of the same meter and do not have a final proper verse, such as the hymn of the Holy Cross at Vespers, and of many Martyrs at Matins.

XXXV. Concerning Common Commemorations, or Suffrages for the Saints.

No. 2. During the Paschal season, another commemoration of the Cross is observed, as is indicated therein in the Lauds of the second weekday after the Sunday in Albis, and it is said only then; not, however, in the Duplicates, nor within the Octaves.

No. 2. During the Paschal season, another Commemoration of the Cross is observed, as is indicated therein in the Lauds of the second weekday after the Sunday in Albis, and it is said only then; not, however, in the Duplicates, nor within the Octaves, "nor in the votive Office of the most holy Sacrament of the Eucharist, or of the Passion of the Lord."

[*Latin ed. p. 442*]

442 FROM THE SACRED RITUAL TABLE, EXTRACTED FROM THE GENERAL RULES. In the first table, one will immediately see what is to be celebrated, if several feasts occur on the same day. In the second, one will see how the preceding Office coincides with the Office of the following day at Vespers. From both tables, in this order, what is sought will be found. First, find the number placed in that square in which the feasts in question occur to one another; then, read the rule described next to that number, and from it, it will be clearly seen what is to be done. For example: The square in which the Double of the first class and the Sunday of the first class occur to one another will be that in the upper corner of the first table, in which the number 1 is indicated, because if, from their respective places, one were to proceed directly to that number, they would occur to one another in it. The rule placed next to that number is as follows: 1. Translation from the first, the Office from the second. That is, the Double of the first class mentioned is transferred, and the SS Office is performed for the Sunday of the first class: because when these rules speak of the first or preceding, they mean the feast placed in the upper part of the table, as the Double mentioned; when they speak of the second or following, they mean the feast placed in the lower part under the numbers, as the Sunday mentioned. In some squares, however, no number is placed, either because no occurrence takes place,

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nor can it, or because in the proper places in the Breviary, it is noted what is to be done. However, it is necessary to know which are the Doubles of the first and second class, and the major feasts throughout the year, and which Sundays, and which weekdays are major feasts. Doubles of the first class, in which no commemoration is made of any feasts that occur, except as mentioned above in the rules. Nativity of the Lord. Epiphany of the Lord. Pascha of the Resurrection, with the three preceding and two following days. Ascension of the Lord. Pentecost, with the two following days. Feast of the Body of Christ. "Feast of the Most Sacred Heart of Jesus." Immaculate Conception, "Annunciation," and Assumption of the Blessed Virgin Mary. Nativity of Saint John the Baptist. Feast of Saint Joseph, Spouse of the Blessed Virgin Mary. Feast of the Holy Apostles Peter and Paul. Feast of All Saints. Dedication of the parish church. Patronal feast, or the titular feast of the church.

[*Latin ed. p. 443*]

443 FROM THE SACRED RITUAL, DOUBLE FEASTS OF THE SECOND CLASS, [in which, concerning the Simples, a Commemoration is made in the Praises, as in the Rubrics; namely:] Circumcision of the Lord. Feast of the Holy Name of Jesus. Feast of the Most Holy Trinity. Feast of the Precious Blood of Our Lord Jesus Christ. Finding of the Holy Cross. Purification of the Blessed Virgin Mary. Visitation of the Blessed Virgin Mary. Nativity of the Blessed Virgin Mary. "Solemnity of the Most Holy Rosary of the Blessed Virgin Mary." Dedication of Saint Michael the Archangel. Feast of the Patronage of Saint Joseph, Spouse of the Blessed Virgin Mary. Nativity of the Eleven Apostles. Feasts of the Evangelists. Feast of Saint Stephen, the First Martyr. Feast of the Holy Innocents, Martyrs. Feast of Saint Lawrence, Martyr. Feast of Saint Anne, Mother of the Blessed Virgin Mary. Feast of Saint Joachim, Father of the Blessed Virgin Mary.

MAJOR SUNDAYS ARE DIVIDED INTO TWO CLASSES. SUNDAYS which belong to the FIRST CLASS are never omitted. First Sunday of Advent. First Sunday of Lent. Sunday of the Passion. Palm Sunday. Easter Sunday. White Sunday. Pentecost. Trinity Sunday.

SUNDAYS of the SECOND CLASS, which are not omitted, unless they coincide with a "Double of the First Class," and then a Commemoration is made of them in both: Second Sunday of Advent. Third Sunday of Advent. Fourth Sunday of Advent. Sunday of Septuagesima. In the Vespers and Compline.

[*Latin ed. p. 444*]

444 From the Sacred Liturgical Calendar: Sunday of Sexagesima? Sunday of Quinquagesima? Second Sunday of Lent. Third Sunday of Lent. Fourth Sunday of Lent. *MAJOR DUPLEX FESTA* throughout the year, which are preferred to other lesser *DUPLEX FESTA*. The Transfiguration of the

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Lord. The Exaltation of the Holy Cross. "The Dedication of the Archbasilica of the Most Holy Savior." Two Feasts of the Seven Sorrows of the Blessed Virgin Mary. The Commemoration of the Blessed Virgin Mary of Mount Carmel. The Dedication of Saint Mary of the Snows. The Feast of the Holy Name of Mary. The Feast of the Mercy of the Blessed Virgin Mary. The Presentation of the Blessed Virgin Mary. The Apparition of Saint Michael the Archangel. The Feast of the Holy Angels Custodes. The Decollation of Saint John the Baptist. The Chair of the Apostle Saint Peter, both. The Feast of the same, *ad Vincula*. The Conversion of the Apostle Saint Paul. The Commemoration of the Apostle Saint Paul. "The Dedication of the Basilicas of the Saints Apostles Peter and Paul." The Feast of Saint John before the Latin Gate. The Feast of Saint Barnabas, Apostle. The Feast of Saint Benedict, Abbot. The Feast of Saint Dominic, Confessor. The Feast of Saint Francis of Assisi, Confessor. The Feast of the lesser Principal Patrons. *MAJOR FERIAE*, of which there is always a Commemoration. The Advent. Lent. The Four Seasons. Second of the Rogation Days.

[*Latin ed. p. 445*]

FROM 445 S. C. CATALOGUE OF RITES: FEASTS WHICH ARE TO BE OBSERVED EITHER AS PRIMARY OR SECONDARY, ACCORDING TO THE DECREES OF THE HOLY CONGREGATION, OF THE 27TH OF AUGUST, 1894, AND OF THE 2ND OF FEBRUARY, 1895. PRIMARY FEASTS IN THE UNIVERSAL CALENDAR.

I. Feasts of the first class.

The Nativity of the Lord.

The Epiphany of the Lord.

The Pasch of the Resurrection.

The Ascension of the Lord.

Pentecost.

The Feast of the Body of Christ.

The Immaculate Conception, the Annunciation, and the Assumption of the Blessed Virgin Mary.

The Nativity of Saint John the Baptist.

The Feast of Saint Joseph, Spouse of the Blessed Virgin Mary.

The Feast of the Holy Apostles Peter and Paul.

The Feast of All Saints.

The Dedication of the proper Church.

The Title of the Church.

The Principal Patron of the Region, or Diocese, or place.

§ II. Feasts of the second class.

The Circumcision of the Lord.

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The Feast of the Most Holy Trinity.
The Purification of the Blessed Virgin Mary.
The Visitation of the Blessed Virgin Mary.
The Nativity of the Blessed Virgin Mary.
The Dedication of Saint Michael the Archangel.
The Nativity of the Eleven Apostles.
The Feasts of the Evangelists.
The Feast of Saint Stephen, the First Martyr.
The Feast of the Holy Innocents, Martyrs.
The Feast of Saint Lawrence, Martyr.
The Feast of Saint Anne, Mother of the Blessed Virgin Mary.
The Feast of Saint Joachim, Father of the Blessed Virgin Mary.
III. Greater Feasts throughout the year.
The Transfiguration of the Lord.
The Dedication of the Archbasilica of the Most Holy Savior.
The Dedication of Saint Mary of the Snows.
The Feast of the Holy Angels Custodes.
The Dedication of the Basilicas of Saints Peter and Paul, Apostles.
The Feast of Saint Barnabas.

[*Latin ed. p. 446*]

446 FROM THE SACRED RITUAL: The Feast of Saint Benedict, Abbot. The Feast of Saint Dominic, Confessor. The Feast of Saint Francis, Confessor. The Feast of the Less Principal Patrons. April 1st. Duplicities throughout the year. The Nativity, or quasi-Nativity, of each Saint. FOR CERTAIN PLACES: Saint Gabriel the Archangel. Saint Raphael the Archangel. The Nativity, or quasi-Nativity, of each Saint. Commemoration of the Saints whose bodies, or relics, are kept in the churches of the diocese. SECONDARY FEASTS IN THE UNIVERSAL CALENDAR. § I. Duplicities of the first class. The Most Sacred Heart of Jesus. § II. Duplicities of the second class. The Feast of the Holy Name of Jesus. The Feast of the Discovery of the Holy Cross. The Feast of the Precious Blood of Our Lord Jesus Christ. The Solemnity of the Holy Rosary of the Blessed Virgin Mary. The Feast of the Patronage of Saint Joseph, Spouse of the Blessed Virgin Mary. § III. Greater Duplicities. The Exaltation of the Holy Cross. The Two Feasts of the Seven Sorrows of the Blessed Virgin Mary. The Commemoration of the Blessed Virgin Mary of Mount Carmel (Haifa). The Feast of the Holy Name of the Blessed Virgin Mary. The Feast of the Mercy of the Blessed Virgin Mary. The Presentation of the Blessed Virgin Mary. The Apparition of Saint Michael the Archangel. The Decollation of Saint John the Baptist. The Chair of Saint Peter the Apostle, both. The

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Feast of the same, at Chains. The Conversion, and Commemoration, of Saint Paul the Apostle. The Feast of Saint John before the Latin Gate. FOR CERTAIN PLACES: Offices of the Mysteries and Instruments of the Passion of Our Lord Jesus Christ, the Holy Redeemer. The Holy Family of Jesus, Mary, and Joseph.

[*Latin ed. p. 447*]

From the Sacred Ritual, 447: Feast of the Most Pure Heart of Mary; Feast of the Espousals; Feast of the Motherhood; Feast of the Purity; Feast of the Patronage of the Most Blessed Virgin; Feast of the Translation of the Almae Domus of the Most Blessed Virgin; Feast of the Expectation of the Birth of the Most Blessed Virgin; Feast of the Most Blessed Virgin, Help of Christians; Feast of the Miracles of the Most Blessed Virgin; Feast of the Apparition of the Most Blessed Virgin; Feast of the Immaculate Conception of the Most Blessed Virgin, celebrated with a sacred medal; Commemoration of all the Most Holy Supreme Pontiffs. Also, any other feasts, whether of the Lord, or of the Most Blessed Virgin under some particular title, or of the Saints, besides their natal day, such as the Finding of the Bodies, the Translation, the Reception, the Patronage, and similar observances.

IF IT HAPPENS THAT ON THE SAME DAY there occurs a Double of the first class, a Double of the second class, a Double throughout the year, a Double of a Doctor of the Church, a Double throughout the year of lesser rank, a Day within the Octave, a Day of the Octave, a Semi-Double, a Simple Feast, the Feast of Saint Mary on Saturday, a Greater Feast, a Vigil, then:

1. The Office is said of the first, and the Office of the second is omitted.

2. The Office is said of the first, and the Translation of the second is omitted.

3. The Commemoration is said of the first, and the Office of the second is omitted.

4. The Office is said of the first, and the Commemoration of the second is omitted.

5. Nothing is said of the first, but the Office of the second is said.

6. The Office is said of the first, and nothing is said of the second.

7. The Office is said of the more important feast, and the Commemoration of the less important feast is omitted; or, the Office is said of the more important feast, and the Translation of the less important feast is omitted.

1. It is to be noted that any Double, whether of a Patron and Title of a Church, or of its Dedication, occurring on the Vigil of the Nativity of the Lord and of Pentecost, on the day of the Circumcision, on the day of the Octave of the Epiphany, on the fourth day of the week of Ashes, or during the entire week of the Passion, and within the Octave of Easter and

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of Pentecost, or on the Ascension of the Lord,

[*Latin ed. p. 448*]

448 FROM THE SACRED RITES concerning the Feast of Corpus Christi, the Feast of the Immaculate Conception, the "Annunciation," and the Assumption of the Blessed Virgin Mary, "on the Nativity of Saint John the Baptist," on the Feast of Saint Joseph, of the Holy Apostles Peter and Paul, and of All Saints, it is transferred, if it can be transferred; otherwise, a commemoration of it is made on the very day it falls, or it is entirely omitted, as stated in the proper rubrics. 2. Within the Octave of Epiphany, only "Double" feasts of the first class are observed, along with a commemoration of the Octave. Other feasts "with nine readings on the first free day" are always celebrated after the Octave; for "Simple" feasts, only a commemoration is made, as above. 3. Within the Octave of Corpus Christi, if a "Semi-Double" feast occurs, only a commemoration is made; nor is a "Double" feast transferred, unless it is of the first or second class, and if it occurs, a commemoration is made of it. 4. Within those Octaves, in which feasts occur, if a "Semi-Double" feast occurs on a Sunday, a commemoration is made, as in other cases, according to the rubrics. 5. Concerning the Octave of the Nativity of the Lord, Epiphany, and Corpus Christi, a commemoration is always made, whatever feast may occur within those days. 6. Concerning other Octaves, which are not in the Calendar, nothing is done from the fourth day of the week of Ashes until the Sunday in Albis, and from the Vigil of Pentecost until the Feast of the Holy Trinity inclusive, and from December 17th until Epiphany. 7. The Octave is never transferred; therefore, although the Nativity of Saint John the Baptist, occurring on the day of Corpus Christi, is transferred to the following day, the Octave is not transferred, but only a commemoration of it is made in the Office of the Octave of Corpus Christi. 8. "If it happens that" the Patron "of the place," or the Title of the Church "described in the Calendar" is on the same day as other Saints, "who can be separated," in that Church, "or in that place," only the Patron or the Title is observed. If others are described in the Calendar under the "rite" of Double "major," or "minor," or Semi-Double, "they are always transferred to the first free day, and the Office of the Semi-Double is celebrated for them. If, however, they are of the Doubles of the first or second class, they are also always transferred to the first free day, and the Office is celebrated for them under the same rite, as if they were celebrated on their proper day." If, however, all are listed as Simple feasts, nothing is done for them. 9. Concerning the Feasts of Advent and Lent, when no Office is celebrated for them, a commemoration is made in both Vespers and Lauds of whatever feast: for the Four Times, and for the second day of Rogations, and for the Vigils, only in Lauds. If, however, any Vigil occurs in Advent, Lent, and the Four Times, or on the days of feasts of the first class, or of the Patron, or Title, or Dedication of the Church, nothing

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is done for it, nor even in Lauds. (follows)

[*Latin ed. p. 449*]

449 FROM THE SACRED RITUAL, WHEN THEY COINCIDE. Sunday of the first and second class, Sunday of the year, Double of the first class, Double of the second class, Patronal or titular feast of the church, Double of the year, greater, Double of the year, lesser, Semidouble, Day of the Octave, Day within the Octave. "Holy Mary in Sabbath." 1. The entire Office of the following, nothing of the preceding. 2. The entire Office of the preceding, nothing of the following. 5. The entire Office of the following, with a Commemoration of the preceding. 4. The entire Office of the preceding, with a Commemoration of the following. 5. The chapter of the following, with a Commemoration of the preceding. 6. The entire Office of the more solemn feast, with a Commemoration of the less solemn feast: "in equal rank of solemnity, from the chapter of the following." Simple, and Holy Mary in Sabbath, Feria, and Vigil do not coincide. 0 4 3 4 4 5 3 3 5 3 0 0 04 4 5 5 4 4 4 4 3 3 55 11 11 11 0 2 2 2 2 44 2 4 4 44 4 66 4 4 6 6 4 4 44 4 4 4 4 4 4 4 4 4 4 4 4 4 4 55 66 33 4 2 2 2 2 4 4 22 44 4 4 4 0 0 4 4 00 4 4 4 4 4 4 4 44 66 1i 3 1i 4 4 4 4 4 5 5 4 4 4 4 55 55 1 53 1 1 4 4 4 44 3 4 4 5 55 5 3 11 11 1 1 5 4 4 4 4 o 5 44 44 5S 5 3 11 35 1 1 4 0 0 0 5 5 4 53 5 3 5 1 1 1 1 i1 5 » « C w » « C » ö o" p o Sj Si o 5′ e Ö c ′S 5′ C s! P F O s? 2 2 p p C» CD g p p cn P~ CK (r. Ifj V- 3 C 1 V′ o" p O o′ ce CD B o o CE" a J . Ss′ Ct> 1. It is to be noted that in the First Vespers of the Octave of the Ascension and of the Body of Christ, "and of other principal feasts of the Lord," the entire Office is said of the Octave, with a Commemoration of the preceding Double, unless it is a solemn principal feast, or of the first or second class; because then the Office would be said of the feast, and the Commemoration of the Octave. 2. In the Second Vespers of the Octave "of the feasts of the Lord, if they are principal and more solemn, such as" the Epiphany, Easter, Ascension, "and others," of the following Double, "if it coincides," only the Commemoration is said, unless "this" is of the first or second class; because then the Office would be said of "it," and the Commemoration of the Octave. "On the" Octave of the Body of Christ, in the Second Vespers "no Commemoration of the following Double (Most Sacred Heart of Jesus) is said, unless it coincides" with the Octave of St. John the Baptist, "and then" the Vespers will be of the Octave of the Body of Christ, with a Commemoration of the Octave of St. John. 5. On the days of the Octave of the principal feasts of the Blessed Virgin Mary, even particular ones of a certain religious order, of the Angels, of St. John the Baptist, of St. Joseph, and of the Holy Apostles, only a Commemoration is said of the preceding or following Lesser Double. 4. In the Second Vespers of the Double of the first class, a Commemoration is said of the Double feasts and Semidoubles, reduced to the manner of a Simple feast "only if" such a Commemoration is to be said on the following day. In the Doubles, however, of the second class, a Commemoration of these feasts is said "in

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both Vespers, as in the general rubrics concerning Commemorations, as is said" in Acta, Tom. XXX. fase. CCCLVI. 29.

[*Latin ed. p. 450*]

450 ACCORDING TO THE SACRED RITES, the Commemoration of a feast is celebrated on the day following the Octave, unless it is necessary to perform the Office of that feast on the following day. 5. When several Commemorations are to be celebrated, the following order must be observed: 1. of a privileged Sunday, 2. of the Octave, 3. of a Double Major, 4. of a Double Minor, reduced to the rank of a Simple feast, 5. of a Common Sunday, 6. of the feast of the Body of Christ within the Octave, 7. of a Semidouble, 8. of a Common feast within the Octave, also reduced to the rank of a Simple feast, 9. of a Greater or Vesper feast, 10. of a Simple feast. ADDITIONS AND CHANGES IN THE SPECIAL RULES OF THE ROMAN BREVIARY: 1. At the end of the Second Vesper of a weekday, the proper Prayer is said. And when in the Office of a weekday, Common Commemorations of Saint Mary, Saint Joseph, the Apostles, and of Peace are celebrated, the following is said before them, both at Lauds and at Vespers, etc. 2. On December 28th, in the Feast of the Holy Innocents. If the Feast of Saint Thomas is impeded by a Sunday, it is celebrated that year on the following Tuesday as if in its proper place, and on the Saturday after the Prayer of the Holy Innocents, the Antiphon, Tract, and Prayer of Sunday are said, which are given below. Then the Commemoration of the Octaves is celebrated; and at the Second Vespers of Sunday, the Commemoration of Saint Thomas and of the Octaves is celebrated. At the Second Vespers of Saint Thomas, the Antiphons and Psalms of the Nativity are said, doubled; the Capitulum, and the rest of the Office of Saint Sylvester, with the Commemoration of Saint Thomas and of the Octaves. 3. Then the proper Prayer is said. And when in the Office of a weekday, Common Commemorations of Saint Mary, Saint Joseph, the Apostles, "of the Title," and of Peace are celebrated, the following is said before them, both at Lauds and at Vespers, etc. If the Feast of Saint Thomas should fall on a Sunday, then at the Second Vespers of the Holy Innocents, the Commemoration of Saint Thomas is celebrated, then Sunday (Antiphon, Tract, and Prayer as below), and afterwards the Commemorations of the Octaves are celebrated. On Sunday, in the Office of Saint Thomas, the ninth Lesson from Holy Scripture is read, and at Lauds, the Commemoration of Sunday is celebrated before the Commemorations of the Octaves. At the Second Vespers of Saint Thomas, the Antiphons and Psalms of the Nativity are said with a double Office, the Capitulum, and the rest of the Office of Saint Thomas, with the Commemorations of Sunday and of the Octaves. Sunday within the Octave of the Nativity. At the Second Vespers of Saint Thomas, when it does not fall on a Sunday, all is done as

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at the Second Vespers of the Feast of the Nativity.

[*Latin ed. p. 451*]

FROM THE SACRED RITUAL OF THE NATIVITY; Chapter. Brothers, for how long, until the Lauds; Hymn, "Jesu Redemptor." 4. If by the double rite, the Chapter, and the rest according to St. Thomas. Then the Commemoration of the Lord's Day and the four Octaves is performed. On the day following the Octave of the Nativity. If the day following the feast of St. Thomas is a Saturday, the Office is performed of the Octave of the Nativity, in this manner: In the Second Vespers of St. Thomas, everything is said as in the Second Vespers of the day of the Nativity, but the Antiphons are not doubled; and after the Prayer of the Nativity, the Commemoration of St. Thomas is performed, then of St. Stephen, and of the other Octaves. If the day following the feast of St. Thomas is a Saturday, the Office is performed of the Octave of the Nativity, in this manner: In the Second Vespers of St. Thomas, everything is said as in the Second Vespers of the day of the Nativity "by the double rite: the Chapter, and the rest according to St. Thomas. Then the Commemoration of the Octave of the Nativity" and of the other Octaves is performed. On the Feast of the Epiphany of the Lord. Within the Octave of the Epiphany, if a Double Feast occurs, either of the higher rank or of some Doctor of the Church, it is transferred to the day following the Octave, unless it is the feast of the Patron or Titular of the Church, or the Dedication thereof. Concerning other Doubles, Semidoubles, and Simples, the Commemoration is performed according to the rubrics. Within the Octave of the Epiphany, "it is performed only of Doubles of the first class, if they occur." Other feasts of nine lessons are always celebrated on the first free day following said Octave. Concerning feasts of three lessons, only the Commemoration is performed, "according to the rubrics." On the day of the Octave of the Epiphany. If the Octave of the Epiphany falls on a Saturday, in the Second Vespers of the Octave, the Commemoration of the Second Sunday after the Epiphany is performed. But when Septuagesima, etc. If the Octave of the Epiphany "occurs" on a Saturday, "the Second Vespers will be of the Most Holy Name of Jesus, with the Commemoration of the same day, of the Octave, and of the Second Sunday after the Epiphany only." But when Septuagesima, etc., is a Sunday, the First Sunday of Lent. If on this day, and on other Sundays of Lent, etc., "everything is omitted." At the end of the day of the Octave of the Ascension of the Lord. If a feast of nine lessons occurs on a Thursday, the Office of the feast is performed with the Commemoration of the Office of that same day, unless that feast is of the more solemn rank, as is said in the rubrics concerning Commemorations. If a feast of nine lessons occurs, "even if it has been transferred," the Office of the feast is performed with the Commemoration of the Office of that same day, unless that feast is of the first class; then the Commemoration of the feast is always omitted. If it

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is a Double of the second class, only the Commemoration is performed in the Second Vespers.

[*Latin ed. p. 452*]

452 9. From the Sacred Ritual, Saturday, in the Vigil of Pentecost. From this day until the Feast of the Trinity, inclusive, if a Double Feast of higher rank or of some Doctor of the Church occurs, it is transferred after the aforementioned Feast of the Trinity. Regarding other Double Feasts and Semi-Double Feasts, only a Commemoration is made, except for the three days of Pentecost. 10. Sunday of Pentecost. If, within the Octave of Pentecost, etc. 11. "In II. Vesp. Ant. Dum esset. #. Iustum. Commem. Oct. et Feriae." At the end of the day, December 13th. On the Feast of Saint Lucy, Virgin and Martyr. When the Feast of Saint Lucy falls on the Third Sunday of Advent, etc. 15. Vespers "de sequ." with the Commemoration of the Octave and the Feria. At the end of the day, December 10th. Saint Damasus I, Pope, Confessor. Vespers from the beginning, of the Octave, with the Commemoration of Saint Damasus. Ant. Dum esset. t. Iustum. Afterwards, of the Feria. 14. "On the day of the Octave," only "a Double of the first class with the Commemoration of the same day of the Octave" is celebrated; and the Second Vespers are said without any Commemoration. At the end of the day, December 10th. On the third day after the Octave of the Immaculate Conception of the Blessed Virgin. Vespers from the beginning, "de sequ.," with the Commemoration of the Octave and the Feria. 13. "The entire [psalm] is to be omitted." Before the Feast of the Body of Christ, or at the end, the rubrics after Feria IV, within the first week after the Octave of Pentecost. On the day of the Octave, only the Feast of the Nativity of Saint John, or the Feast of the Holy Apostles Peter and Paul, or another of the more solemn feasts, if they occur, are celebrated, with the Commemoration of the Octave. 12. From this day until the Feast of the Trinity, inclusive, if a Double Feast of higher rank or of some Doctor of the Church occurs, it is transferred after the aforementioned Feast of the Trinity. Regarding other Double Feasts, Semi-Double Feasts, "and Simple Feasts," only a Commemoraion is made "without the ix. [psalm] Lection (unless it is the Vigil of Pentecost, in which it is said)." Except for the three days of Pentecost. "The entire [psalm] is to be omitted." On December 14th, the seventh day after the Octave of the Immaculate Conception of the Blessed Virgin. Immediately add: "If today it is to be celebrated of some lesser Double Feast that has been transferred by some Doctor."

[*Latin ed. p. 453*]

From the Sacred Ritual, 455: In the churches, during the Second Vespers of the Octave, everything pertaining to the day of the Octave is said, just as in the First Vespers of the Feast, with the Commemoration of the preceding day and the Feria, unless this Octave falls on a Sunday; in which case, the

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Vespers are celebrated according to the Double, with the Commemorations for Sunday and the Octave.

6. Sunday II after Epiphany. In the Feast of the Most Holy Name of Jesus. Double of the Second Class. If the Sunday Septuagesima occurs, this Feast is transferred to January 28th, as to its proper place (and any other Feast that may occur and be able to be transferred is transferred, unless it is of a higher rank): and then the ninth Lesson from the Book of Saint Agnes is read, and a Commemoration of her is made only in the Lauds. Concerning the Double of the Lesser Rank, etc., on January 15th. Saint Paul the First Hermit. After the Intercessory Prayer, "May we be heard." But if the Feast of Saint Paul is celebrated on another day, the Antiphons and Tracts are not changed, but are said as in the Common.

18. If the Feast of Saint Paul is celebrated "elsewhere" on another day, "or if only a Commemoration of Saint Maur is made in the Lauds," the Antiphons and Tracts are not changed, but are said as in the Common. On February 5th. Saint Agatha, Virgin and Martyr. Double. In the First Vespers, when the complete office is said, the Antiphon is "Who are you?" with the rest from the Lauds. The Psalm "Dixit Dominus" is said, with the rest from the Common of Apostles, in the Lauds.

19. If the Sunday Septuagesima occurs, this Feast is transferred to January 28th, as to its proper place (and any other Feast that may occur and be able to be transferred is transferred, unless it is of a higher rank, "or of equal rank, but primary"), and then the ninth Lesson from the Book of Saint Agnes is read, and a Commemoration of her is made only in the Lauds. Concerning the Double of the Lesser Rank, etc. In the First Vespers, when the complete office is said, the Antiphon is "Who are you?" with the rest from the Lauds. The Psalm "Dixit Dominus" is said, with the rest "as in the First Vespers" from the Common of Apostles, in the Lauds.

On February 6th. At the end of the office, Saint Titus, Bishop. In the Confession. If this Feast is celebrated on another day outside of Lent, and it does not occur on that day, etc. If this Feast is celebrated "elsewhere" on another day (outside of Lent), and it does not occur on that day, etc.

[*Latin ed. p. 454*]

454 20. FROM THE SACRED CONGREGATION OF RITES, March 8th. At the end of the Office of Saint John of God, Confessor. During Lent, the ninth reading of the Homily for the day, and the Commemoration in the Lauds. Vespers will begin with the capitulum of the Sequence, with the Commortation preceding it, and on weekdays.

21. March 19th. Saint Joseph, Spouse of the Blessed Virgin Mary, Confessor. Double of the first class. In the First Vespers. Antiphon 1: "But Jacob..."

22. During Lent, the ninth reading of the Homily for the day, and the Commemoration in the Lauds. "If this feast should occur before the Fourth

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Day of Ashes, or if it is celebrated after Easter, and it does not occur with a feast of simple rank having its own reading, the ninth reading will be: 'My dearest, if God hath so loved us, we also ought to love one another,' as on the seventeenth Sunday after Pentecost." Vespers will begin with the capitulum of the Sequence, with the Commemoration preceding it, and on weekdays. "If this feast should occur on the Sunday of the Passion, it will be transferred to the second weekday immediately following; and whenever it occurs during the Greater Week, it will be transferred to the fourth weekday after the Sunday in Albis, as to its proper place." In the First Vespers. Antiphon 1: "But Jacob..."

25th of March. The Annunciation of the Blessed Virgin Mary. Double of the first class. "If this feast should occur on a privileged Sunday, it will be transferred to the second weekday immediately following, with any other feast of equal rank also being transferred, but not of a higher rank. If a feast of a lower rank (except for the feast of some Doctor of the Church?) or a semi-double feast occurs, only a Commemoration will be observed in both Vespers and Lauds. If it occurs during the Greater Week or the Easter Week, it will be transferred (with the same privilege) to the second weekday after the Sunday in Albis, observing the Easter rite. "If this feast should occur on the sixth day, on the Friday or the Holy Saturday, it will be transferred to the second weekday after the Sunday in Albis, as to its proper place, with all its solemnity and feria, and without an Octave, observing the Easter rite. If it occurs on the Sunday of the Passion, it will be transferred to the second weekday immediately following; if it occurs during the Greater Week or the Easter Week, it will be transferred to the aforementioned second weekday after the Sunday in Albis, unless it occurs with a feast of primary rank of the same rite, in which case, if the following day is also not impeded, it will be transferred to that day."

[*Latin ed. p. 455*]

EX 25. According to the liturgical calendar, Feria VI, following the Sunday of the Passion, is the Feast of the Seven Sorrows of the Blessed Virgin Mary. It is a Double Feast. If, on this day, a feast of higher rank or dignity occurs, then the Feast of the Seven Sorrows must be transferred to the immediately following Saturday, regardless of any other feast of equal rank or dignity that may occur on that day; but if it cannot be transferred to that Saturday, it must be omitted. If the first Vespers, etc., are to be omitted, it is on the 17th of May, the feast of St. Paschal Baylon, a Double Feast. At the end of the sixth reading, St. Alexander is added to the list of saints.

25. St. Alexander, the eighth in the list of saints, added: "Finally, Leo XIII declared and established as the heavenly patron of all special groups and of all societies, whether already existing or to be founded in the future, the Most Holy Eucharist."

On May 18th, the feast of St. Venantius, Martyr, a Double Feast. All of

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the proper texts for a Common of a Martyr are to be used, except for the sequence. If this feast is celebrated on another day, and the chapter is not to perform the first Vespers, then the following hymn, "Martyr Dei," is to be said at Matins, together with the hymn "Athleta Christi," under the same conclusion: "Sit laus Patri." Otherwise, it is to be said as indicated below.

At the First Vespers:

Hymn: "Martyr Dei, Venantius, etc."

All of the proper texts for a Common of a Martyr are to be used, except for the sequence.

If this feast has only a Commemoration at both Vespers, then the hymn for the First Vespers is joined with the hymn for Matins, with the conclusion "Sit laus Patri." If, however, it has the complete texts for the Second Vespers, then the hymn "Martyr Dei" is said at Matins, "Athleta Christi" at Lauds, and the hymn "Dum nocte" is said at the Second Vespers. Otherwise, it is to be said "as written below."

At the First Vespers:

Hymn: "Martyr Dei, Venantius, etc."

[*Latin ed. p. 456*]

456 26. From the Sacred Ritual, May 19th. Feast of Saint Peter Celestine, Pope. After the ninth lesson for Saint Pudens. If this feast should be celebrated on another day, the ninth lesson is read, and then *Paulus*, from the Second Chapter of the Common of the Apostles, as mentioned above. 27. June 27th. The fourth day within the Octave of the Nativity of Saint John. After the ninth lesson. Vespers are celebrated according to the proper order, with the Commemoration of the Octave of Saint John. 28. If the Commemoration of Saint Paul falls on the Octave of the Body of Christ, it is transferred, "according to the rubrics," to the first free day, and the entire Office is celebrated as if it were in the proper church. June 30th. In the Commemoration of Saint Paul the Apostle, a feast of the first class. July 1st. Feast of the Precious Blood of Our Lord Jesus Christ, a feast of the second class. If today falls the Feast of the Visitation of the Blessed Virgin Mary, or another feast of equal or higher rank, the Office of the Precious and Blood will be celebrated on the first day, etc. 50. Vespers "of the following day" with the Commemoration of the preceding Octave of Saint John. Before June 30th. If the Commemoration of Saint Paul falls on the Octave of the Body of Christ, it is transferred to the first day within the Octave, on a Sunday or a feast day not already occupied: and the entire Office is celebrated as if it were in the proper church. June 30th. In the Commemoration of Saint Paul the Apostle, a feast of the first class. 29. If this feast is celebrated "elsewhere" on another day, and on that day there does not occur a simple feast having its own proper lesson, then the ninth lesson will be: *Paulus*, from the Second Chapter of the Common of the

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Apostles, as mentioned above. If today falls the Feast of the Visitation of the Blessed Virgin Mary, "or" another feast "of higher rank, or" equal "but of primary rank," the Office of the Precious Blood will be celebrated on the first day, etc. July 5th. Feast of Saint Anthony of Mary Zaccaria, Confessor, a feast of the first class. At the end of the Office. "Vespers of the following day, Commemoration of the preceding feast."

[*Latin ed. p. 457*]

EX 31. SACRAMENTARIA RITUUM 457. Die 6 Iulii. In Octava Sanctorum Petri et Pauli Apostolorum. Post Antiphonam ad Magnificat, in Secundis Vesperis: « Et factum est Commemoratio sequentis ». 32. Die 7 Iulii. Sanctorum Cyrilli et Methodii, Pontificum, et Confessorum. Duplex. Ad Laudes, post Orationem: Omnipotens sempiternus Deus, etc. « In Secundis Vesperis ». « Hymnus et t. ut in Primis Vesperis ». « Ad Magnificat, Antiphonam ». Hi sunt, sancti viri, qui amici Dei facti sunt, praeconio divina veritatis gloriosi: linguae eorum claves caeli factae sunt. « Oratio ut supra. Deinde fit Commemoratio sequentis ». 33. Die 2 Augusti. Sancti Alphonsi Mariae de Ligorio, Episcopi, Confessoris, et Ecclesiastici Doctoris. Duplex. Post Lecturam pro Sancto Stephano I, Papa Martyre: Si hoc Festum alia die celebrari contigerit, Lectio erit: Hinc namque, de Homilia. 34. Die 8 Septembris. In Officio Nativitatis Beatae Mariae Virginis, ad Laudes post Orationem: Famulis tuis. Deinde fit Commemoratio Sancti Adriani Martyris, hoc loco tantum, etc. Oratio. Praesta, quaesumus, omnipotens Deus: ut qui beati Adriani Martyris, tui, etc. 33. Si hoc Festum «aliquando» alia die «celebretur, et in ea non occurrat Simplex, habens Lectionem propriam», Lectio erit: Hinc namque, de «Communi Evangelistarum». Deinde fit Commemoratio Sancti «Hadriani» Martyris, hoc loco tantum, etc. Oratio. Praesta quaesumus, omnipotens Deus: ut qui beati «Hadriani» Martyris tui, etc. Dominica III Septembris. Septem Dolorum Beatae Mariae Virginis. Duplex majus. Si in Dominica III Septembris occurrat aliud Festum sive Beatae Mariae Virginis, sive altioris ritus, vel dies Octava Festi quod alicubi sollemniter sit, Festum Septem Dolorum amandatur ad Dominicam IV Septembris, et hac «Impedita Dominica III Septembris ob occursum Festi Duplicis 1. vel 2. classis, vel alicuius diei Octavae, vel Duplicis maioris primarii, vel potioris dignitatis, Festum Septem Dolorum Beatae Mariae Virginis.

[*Latin ed. p. 458*]

458 FROM THE SACRED RITUAL, also as mentioned above, to free the nearest day from the aforementioned feasts. If, however, it continues until the Advent, etc. 36. On September 16th, the feast of Saints Cornelius, Pope, and Cyprian, Bishop, Martyrs. A semi-double. After the prayer for the holy martyrs Euphemia, Lucy, and Geminian. If the feast of Saints Cornelius and Cyprian falls on a Sunday with the commemoration of the same in both Ves-

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pers and Lauds, and with one reading from the historical readings (from the three), and the commemoration of the holy martyrs Euphemia, Lucy, and Geminian in the First Vespers and Lauds, omitting the reading, in the First Nocturn, the readings, etc. 37. "If this feast is celebrated somewhere and does not 'have the First Vespers,' the Hymn of the Celestial Court is joined with the Hymn 'On the Mount of Olives,' at Matins." In the First Vespers. Antiphon 1. "Quas est ista" (What is this?). On November 8th, in the Octave of All Saints. After the rubric concerning Lauds. Vespers from the beginning, concerning the following, with the commemoration of the Octave and Saint Theodore, Martyr. 40. Vespers "concerning the following," with the commemoration of the preceding. On Sunday, October 1st, in the Solemnity of the Most Holy Rosary of the Blessed Virgin Mary. A double of the second class. In the First Vespers. Antiphon 1. "Quas est ista" (What is this?). 39. If the feast of Saints Cornelius and Cyprian "occurs" on a Sunday, the Office of the "Feast of the Seven Sorrows of the Blessed Virgin Mary" is celebrated, with one reading from the Homily and the commemoration of the Sunday, and of the holy martyrs, Popes, in both Vespers and Lauds, as well as of the holy martyrs Euphemia, Lucy, and Geminian, in the First Vespers and Lauds only." In the First Nocturn, the readings, etc. On September 17th. At the end of the Office of the Impression of the Sacred Stigmata in the Body of Saint Francis, the Confessor. Vespers from the beginning, concerning the following, with the commemoration of the preceding. 38. Vespers are transferred to the nearest following Sunday, in a similar manner, not impeded." If, however, it continues until the Advent, etc. "Vespers concerning the following, with the commemoration of the preceding, and" Saint Theodore, Martyr. On November 9th, in the Dedication of the Archbasilica of the Most Holy Savior, "a greater double." After the rubric concerning Lauds. Vespers from the beginning, concerning the following, with the commemoration of the preceding, and of the holy martyrs Tryphon and his companions, "In the Second Vespers, the commemoration of the following," and of the holy martyrs Tryphon and his companions.

[*Latin ed. p. 459*]

From the Sacred Ritual, number 41. On the 18th of November. In the Dedication of the Basilicas of the Holy Apostles Peter and Paul. "Double Major." After the ninth reading, the Vespers are sung from the beginning, with the proper commemorations, and of Saint Pontian, Pope and Martyr. "In the Second Vespers, the following commemoration is added," and of Saint Pontian, Pope and Martyr.

Among the Proper Offices for Certain Places, or in a Brief Appendix to the Roman Breviary.

42. On the Second Sunday of October, the Feast of the Blessed Virgin Mary. For Matins, the Hymn: "The Redeemer presented the Blessed Vir-

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gin's womb to Heaven, Where the mortal body, destined for sacrifice, was clothed." The Redeemer presented the Blessed Virgin's womb to Heaven, Where "the future victim" was clothed in the mortal body, etc.

NOTES REGARDING TWO DECREES WHICH PRECEDE THE SACRED RITUAL BULL IN THE MISSAL OF URBAN VIII, ROMAN.

In the Decree of the City and the World, of September 29, 1714, which begins with the words "Concerning the Missal, etc.," the aforementioned Decree was again confirmed by the same Blessed Alexander VII, through a special Brief, which begins with the words "Having been made known to us," and it was further established that this should be observed, concerning Masses to be celebrated in Privileged Altars by obligation, and that Indulgences granted through such privileges should benefit the souls in Purgatory, as if Masses for the Dead had been celebrated. The words that follow, "And finally, it is declared," up to the words "On January 22, 1667, during the pontificate of Pius XII," inclusive, are to be removed, and immediately following are the words "Then, the Blessed Pope Clement IX," to the end of the Decree.

In the second Decree of the City and the World, of March 14, 1861, which begins with the words "The Most Holy Pope Pius IX, with the counsel of the Sacred Congregation of Rites," the first part, "When the Dedication of the Basilicas occurs," up to the words "On September 25, 1706, at XI," inclusive, is not to be included; therefore, it is to be removed.

[*Latin ed. p. 460*]

460 FROM THE SACRED CONGREGATION FOR RITUAL, ADDITIONS AND CHANGES TO BE MADE IN THE GENERAL RUBRICS OF THE MISSAL, PART I, SECTION III, Concerning Weekdays and Vigils. No. 1. The Mass for a weekday is said up to the words "alia de Feria" after the Nunc dimittis. No. 1. The Mass for a weekday is said... up to the words "alia de Feria" after the Nunc dimittis. "However, Masses for the greater weekdays may also be celebrated on semi-double feasts." V. Concerning Masses for the Dead. No. 2. Furthermore, the Second Mass... is said, except on double feasts and on Sundays. No. 3. On the day of the Commemoration of All the Faithful Departed, and on the day of the Burial, and on the Anniversary of the deceased, only one prayer is said: and likewise on the third, seventh, and thirtieth days, and whenever a Mass is solemnly celebrated for the deceased: in other Masses, more prayers are said, as will be explained below in the rubric concerning prayers, for weekdays and simple feasts. No. 2. Furthermore, the Second Mass... is said, except on double feasts and on Sundays. "Furthermore, private Masses for the deceased, as on the day of death or burial, may also be celebrated on double feasts, in the presence of, or for, the deceased, or even for one who has been buried for no more than two days; except for double feasts of the first class, and on double feasts of the first class, and on feasts of precept."

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No. 3. "Only one prayer is to be said in all Masses which are celebrated on the day of the Commemoration of All the Faithful Departed, on the day of the Burial, and also in Masses sung or read, if permitted by the rite, on the third, seventh, and thirtieth days, and on the anniversary of any deceased person, as well as whenever a Mass is solemnly celebrated for the deceased, namely, under the rite which corresponds to a double feast, as in the Office which is recited after the reception of the news of someone's death, and on lavish anniversaries." Then, the following is added: No. 4. "In daily Masses, whether sung or read, more prayers are to be said, of which the first is for the deceased or deceased, specifically designated, for whom the Sacrifice is offered.

[*Latin ed. p. 461*]

RULE N. 5. The Sequence for the Dead is said on the day of the Commemoration of all the Faithful Departed, and on the day of the Burial of the Deceased, and whenever it is said in the Mass, only one prayer is said: in other Masses for the Dead, let the priest decide. 461. Of those which are found below in the Missal, the second is said at the priest's discretion, and the last is for all the Departed. If, however, a Mass is celebrated in general for the Departed, the prayers must be said which are found in this Missal for daily Masses, in the same order in which they are written. If, in these same daily Masses, the celebrant wishes to recite more prayers, as is said of feasts and simple days below in the rubric concerning prayers, this may be done only in sung Masses, while observing the prescribed number, and the prayer for all the Departed must be assigned to the last place.

N. 5. The Sequence for the Dead is said on the day of the Commemoration of all the Faithful Departed, and on the day of the Burial of the Deceased, "in all sung Masses, as well as in recited Masses, which are celebrated on the days mentioned above." In other Masses, however, it may be recited or omitted at the celebrant's discretion.

VI. Concerning the Translation of Feasts. In celebrating Masses, the order of the Breviary for the Translation of Double Feasts must be observed, when they are hindered by a greater feast or by a Sunday. In churches where the title of the church is that of a feast, or where there is a gathering of the people to celebrate a feast that must be transferred, two Masses may be sung, one for the day, and one for the feast: except for the First Sunday of Advent, the Fourth Day of Ashes, the First Sunday of Lent, "the Sunday of the Passion," Palm Sunday with the entire week of the greater octave, the Sunday of the Resurrection "with the following two days, the Sunday in White," the Sunday of Pentecost "with the two following weekdays, the Sunday of the Most Holy Trinity," the Nativity of the Lord, the Epiphany, the Ascension, and the Feast of Corpus Christi.

In celebrating Masses, the order of the Breviary for the Translation of Double Feasts must be observed, when they are hindered by a greater feast

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or by a Sunday. In churches where the title of the church is that of a feast, or where there is a gathering of the people to celebrate a feast that must be transferred, two Masses may be sung, one for the day, and one for the feast: except for the First Sunday of Advent, the Fourth Day of Ashes, the First Sunday of Lent, "the Sunday of the Passion," Palm Sunday with the entire week of the greater octave, the Sunday of the Resurrection "with the following two days, the Sunday in White," the Sunday of Pentecost "with the two following weekdays, the Sunday of the Most Holy Trinity," the Nativity of the Lord, the Epiphany, the Ascension, and the Feast of Corpus Christi.

VII. Concerning Commemorations.

N. 5. In celebrating Commemorations, the order must be observed as in the Breviary. Concerning a Double Feast which is celebrated in the manner of a Simple Feast, N. 5. In celebrating Commemorations, the order must be observed as in the Breviary. "First of all, these Commemorations are placed at the beginning."

[*Latin ed. p. 462*]

462. After the "Te Deum" is sung, the "Commemoratio" is said before the Sunday: concerning the Sunday before the Feast of the Half-Dominica, reduced to the manner of a Simple Sunday; concerning the Half-Dominica before the day within the Octave; concerning the day within the Octave, before the aforementioned Feriae; concerning the aforementioned Feriae, before the Simple Feast; concerning the Simple Feast before the prayers which are assigned to be said in the second or third place; and these prayers are said before the votive prayers; in which votive prayers, the dignity of the prayers is then observed, such as those concerning the Most Holy Trinity, the Holy Spirit, the Most Holy Sacrament, the Holy Cross before the votive prayer of the Blessed Virgin Mary, and of the Angels, of Saint John the Baptist and Saint Joseph before the Apostles, and similarly in others. CONCERNING THE RITES which pertain to the Office of whatever rite; except those which are never separated from the Office of which we are speaking. Then: 1. concerning the privileged Sunday, 2. concerning the day of the Octave, 3. concerning the Greater Double, 4. concerning the Lesser Double, reduced to the manner of a Simple Sunday, 5. concerning the Common Sunday, 6. concerning the day within the Octave of Corpus Christi, 7. concerning the Half-Dominica, 8. concerning the day within the Octave, common, also reduced to the simple rite, 9, concerning the Greater Feria, or the Vigil, 10. concerning the Simple Sunday: "concerning the Simple Feast," the "Commemoratio" is said before the prayers which are assigned to be said in the second or third place; and these prayers are said before the votive prayers; in which votive prayers, the dignity of the prayers is then observed, such as those concerning the Most Holy Trinity, the Holy Spirit, the Most Holy Sacrament, the Holy Cross before the votive prayer of the

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Blessed Virgin Mary, and of the Angels, of Saint John the Baptist and Saint Joseph before the Apostles, and similarly in others.

PART II. I. Concerning the preparation of the Priest who is to celebrate. N. 4. If the celebrant is a Bishop, "or an Abbot, as above," he does not draw the stole before his chest, etc. N. 4. If the celebrant is a Bishop, he does not draw the stole before his chest, etc. V. Concerning the Prayer. N. 2. When the name JESUS is mentioned, the head is inclined towards the Cross; which is also done when the name is mentioned in the Epistle. And similarly, wherever the name of the Blessed Virgin Mary, or of the Saints, about whom the Mass is said, or the Commemoratio is made, is mentioned; also in the Prayer for the Pope, when the name is mentioned, the head is always inclined, but not towards the Cross; "unless in the principal place of the altar there is an image or representation of the Blessed Virgin Mary or of a Saint, towards which the head is inclined." If several prayers are to be said, the same is observed in them, in the voice, in the extension of the hands, and in the inclination of the head, as has been said above.

[*Latin ed. p. 463*]

FROM SACRED RITUALS 463 VII. Concerning the Offering, and other matters up to the Canon. No. 5. Having placed water in the chalice and having completed the aforementioned prayer, he receives, etc., up to the words "In spirit of humility." Afterwards, standing upright, raising his eyes, and extending his hands, and immediately joining them before his breast, etc. No. 5. Having placed water in the chalice and having completed the aforementioned prayer, he receives, etc.... "In spirit of humility." Afterwards, standing upright, raising his eyes, and extending his hands "and stretching them upwards," and immediately joining them before his breast, etc. VIII. Concerning the Canon of the Mass up to the Consecration. No. 1. Having completed the Preface, as above, the priest, standing before the middle of the altar, facing it, slightly raises his hands, and with his eyes raised to God, etc. No. 1. Having completed the Preface, as above, the priest, standing before the middle of the altar, facing it, "extends and" slightly raises his hands, with his eyes raised to God, etc. XII. Concerning the Blessing at the end of the Mass, and the Gospel of Saint John. No. 7. In a solemn Mass, the celebrant, with the same voice and manner as in private Masses, blesses the people only once, unless he is a Bishop, or an Abbot, as will be explained below: and after the Gospel, etc. No. 7. In a solemn Mass, the celebrant, with the same voice and manner as in private Masses, blesses the people only once, unless he is a Bishop, or an Abbot "celebrating pontifically," as will be explained below: and after the Gospel, etc. ADDITIONS AND CHANGES IN THE SPECIAL RUBRICS OF THE ROMAN MISSAL 1. Sunday II of Advent, and the Feast Day of the Four Sundays of Advent. Offering: Psalm 84. "O God, you who turn and give life to us, etc." 2. Offering: Psalm 84. "O God, you who are turned and give life to us, etc." On the Feast of the Holy

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Innocents. At the end of the Mass. If the Feast of Saint Thomas is hindered by a Sunday, it is celebrated on the following second day, as if in his own diocese. "The entire passage is to be removed."

[*Latin ed. p. 464*]

464 FROM THE SACRED RITUAL: In the Feast of Saint Thomas, Bishop and Martyr, at the end of Mass. If the Feast of the Nativity of the Lord, of Saint Stephen, of Saint John the Evangelist, and of the Holy Innocents should occur on a Sunday, nothing is done concerning the Sunday on that day, but on the day following the Feast of Saint Thomas the Martyr, Mass is said for the Sunday. If, however, the Feast of Saint Thomas should occur on a Sunday, Mass is said for the Feast, with the commemoration of that same Sunday and of the four Octaves, and the Gospel of the Sunday is read at the end. At the end of Mass of the Octave of the Nativity of the Lord. If the Feast of Saint Sylvester should occur on a Sunday, Mass is said for him, with the commemoration of the Sunday and of the Octaves. Saint Sylvester, Pope and Confessor, 5th. If the Feast of Saint Sylvester should occur on a Sunday, Mass is said for him, with the commemoration of the Sunday and of the Octaves, "and the Gospel of the Sunday is read at the end." Saint Sylvester I, Pope, Confessor. After the Feast of the Epiphany of the Lord. Concerning Double Major Feasts and those of some Doctor of the Church, which occur within the Octave, nothing is done then (unless it be of the Patron or Titified Saint of the Church, and of the dedication of the same, in the proper Church, but not in the Octave), but after the Octave is completed, they are celebrated; concerning other Double Feasts, and those of Semi-Double and Simple rank which occur, only a commemoration is made. "If Double Major Feasts occur within the Octave, but not on the day of the Octave, Mass is said for them with the commemoration of the Octave; concerning other Feasts, except for those of Simple rank, for which a commemoration is made, nothing is done; but after the Octave is completed, they are perpetually celebrated. On the day of the Octave, Mass is always said for the same, even if a Double Major Feast is transferred, which is perpetually observed after that same Octave; but if a Simple Feast occurs, only a commemoration is made." On December 7th. After Mass of Saint Ambrose, Bishop, Confessor, and Doctor of the Church, the following is added: "Today, in Cathedral and Collegiate Churches, two Masses are said, one for the Saint without the commemoration of the Feria or Vigil, and the other for the Vigil, as follows."

[*Latin ed. p. 465*]

465 FROM THE SACRED RITUAL: On December 11th, at the Mass of Saint Damasus I, Pope, and on December 13th, at the Mass of Saint Lucy, Virgin and Martyr, after the Secret: "Add the Preface of the Blessed Virgin Mary." And on the Feast of the Immaculate Conception, December 8th.

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After the Mass of Saint Peter Damian, Bishop, Confessor, and Doctor of the Church: "Today, outside of the season of Lent, two Masses are said in Cathedrals and Collegiate Churches: one of a Saint without the commemoration of the vigil, the other of the vigil with the second Collect, the third Collect of the Church, or for the Pope." On March 19th, at the Mass of Saint Joseph, Confessor, Spouse of the Blessed Virgin Mary: After the Gradual, etc. In votive Masses after the Paschal Time until Pentecost, the Gradual: Psalm 20: "Lord, hear my prayer. All kings shall bless You." "The entire [psalm] is to be omitted." On March 25th, after the Mass of the Annunciation of the Blessed Virgin Mary: "If this feast falls on a privileged Sunday, it is to be transferred to the immediately following weekday, along with any other double or equal feast, but not of a higher rank. If a lesser double feast (except for the feast of a Doctor of the Church) or a semi-double feast occurs, only a commemoration is made in both Vespers and Lauds. If, however, it occurs during the Greater Week or the Paschal Week, it is to be transferred (with the same privilege) to the second weekday after the Sunday in Albis, observing the Paschal rite. Acts, Volume XXX, page CCCLVL, regarding Virgins: "If this feast falls on a Friday, or on Holy Saturday, it is to be transferred to the second weekday after the Sunday in Albis, as to its proper place, with all its solemnity and feria, and without an octave, observing the Paschal rite. If, however, it occurs on the Sunday of the Passion, it is to be transferred to the immediately following weekday; and if it occurs during the Greater Week or the Paschal Week, it is to be deferred to the aforementioned second weekday after the Sunday in Albis, unless a primary feast of the same rank occurs, in which case it is to be transferred to the following day, also not impeded. "

[*Latin ed. p. 466*]

466 11. From the Sacred Ritual, Feria VI, after the Sunday of the Passion. After Mass of the Seven Sorrows of the Blessed Virgin Mary. When the Feast of the Seven Sorrows of the Blessed Virgin cannot be celebrated on this day, it must be transferred to the immediately following Saturday, provided that no feast of equal or higher rank occurs on that day. But if it cannot be celebrated even on the following Saturday, it is to be omitted.

12. Sunday, July 1st. After Mass of the Precious Blood of Our Lord Jesus Christ. If today falls on the Feast of the Visitation of the Blessed Virgin, or another feast of equal or higher rank, the Mass of the Precious Blood will be celebrated on the first day thereafter, etc.

13. "When the Feast of the Seven Sorrows of the Blessed Virgin cannot be celebrated on this day because of the occurrence of a feast of higher rank, or of equal rank but of primary importance, or of greater dignity," it must be transferred "to" the immediately following Saturday, "provided that it is not hindered." But if it cannot be celebrated even on that Saturday, it is to be omitted that year. If today falls on the Feast of the Visitation of the

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Blessed Virgin, "or" another feast "of higher rank, or" of equal rank "but of primary" importance, the Mass of the Precious Blood will be celebrated on the first day thereafter, etc.

September 8th. In the Mass of the Nativity of the Blessed Virgin. In the rubric and prayers for St. Hadrian, the martyr, correct "ipsius S. Mart. Adriani, Adriano" to "Hadriani, Adriano."

September 9th. In the Mass of St. Gorgonia, the martyr. After the prayer "Sanctus tuus," the Third Prayer of the Holy Spirit: "O God, who searches the hearts of all men." Unless it falls on a Sunday, in which case the Third Prayer will be of St. Gorgonia, the martyr.

September 10th. After the prayer for the Saints Protus and Hyacinthus, the Third Prayer of the Holy Spirit: "O God, who searches the hearts of all men." Unless it falls on a Sunday, in which case the Third Prayer will be of the Saints Protus and Hyacinthus.

September 11th. The Third Prayer of the Holy Spirit: "O God, who searches the hearts of all men." "Then, the following should be erased." The Third Prayer of the Holy Spirit: "O God, who searches the hearts of all men." "The rest should be erased as above."

Sunday, September 3rd. After Mass of the Seven Sorrows of the Blessed Virgin. If hindered on Sunday, September 3rd, because of the occurrence of a feast of Double I or II class, or the Octave of the Patron, Titular, Dedication, etc., the Feast of the Sorrows is transferred. If hindered on Sunday, September 3rd, because of the occurrence of a feast of Double I or II class, or of any "Octave, or of a Double of higher primary, or greater dignity,"

[*Latin ed. p. 467*]

The order of liturgical celebrations is observed in the nearest Sunday, even if it coincides with a feast of a lower rank (regarding which a commemoration will be made in the manner of a simple feast, according to the rubrics), provided that it is not the Octave of the Patron, Titular, or Dedication, etc. However, if, until the Advent, no free Sunday remains, the Feast of the Seven Sorrows of the Blessed Virgin is transferred, according to the rubrics, to the first free day after the Third Sunday of September. "If, subsequently, the Feast of Saints Cornelius and Cyprian occurs on a Sunday, the commemoration of Saints Cornelius and Cyprian, and of Saint Euphemia, etc., is celebrated on that day. "If, however, it occurs on a Thursday of the Four Weeks, in the Mass of Saints Cornelius and Cyprian, the commemoration of the feria [weekday] is first made, and then of Saint Euphemia, etc. And in Cathedral and Collegiate churches, two Masses are said, one of Saints Cornelius and Cyprian, in which the commemoration of Saint Euphemia, etc., is made, and the other of the said feria, without the commemoration of the Saints. 17. "If the Feast of the Seven Sorrows is transferred to the nearest Sunday, "in a similar manner, so that it is not

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impeded." However, if, until the Advent, no free Sunday remains, the Feast of the Seven Sorrows is transferred, according to the rubrics, to the first free day after the Third Sunday of September. If the Feast of Saints Cornelius and Cyprian occurs on a Thursday of the Four Weeks, in the Mass of Saints Cornelius and Cyprian, the commemoration of the feria is made first, and then of Saint Euphemia, etc. And in Cathedral and Collegiate churches, two Masses are said, one of Saint Cornelius and Cyprian, in which the commemoration of Saint Euphemia, etc., is made, and the other of the said feria, without the commemoration of the Saints. In the Mass of the Common Doctors. After Communion. "For the Doctor, the Pontiff." May your sacrifices, O Lord, grant us salvation: blessed N., your Confessor and excellent Doctor, may he plead for us. Through the Lord. May your sacrifices, O Lord, grant us salvation: blessed N., "your Pontiff" and excellent Doctor, "we beseech you," may he plead for us. Through the Lord. "For the Doctor, not the Pontiff." May your sacrifices, O Lord, grant us salvation: blessed N., your Confessor and excellent Doctor, "we beseech you," may he plead for us. Through the Lord. 18. After the Mass of the Dedication of a Church. On the very day of the Dedication, the Mass is said as above, in the Anniversary of the Dedication, except for the prayers, which are said as follows. On the very day of the Dedication of the Church, "and throughout the Octave, and when the prayer must be upon the Dedication of another church," the Mass is said as above, in the Anniversary of the Dedication, except for the prayers, which are said as follows.

[*Latin ed. p. 468*]

468 FROM THE SACRED CONGREGATION OF RITES, CONCERNING CERTAIN PLACES. May 15th. In the Mass of Saint Isidore the Farmer, Confessor. After Communion. 19. May the celestial mystery restore us, O Lord, in mind and body: and may it be granted that we may experience the effects of Saint Isidore the Confessor, whose cult we celebrate. Through the Lord. May the celestial mystery restore us, O Lord, in mind and body: and may it be granted that, through the intercession of your Saint Isidore the Confessor, we may experience the effects of the cult which we celebrate. Through the Lord.

URBAN AND ECCLESIASTICAL. When, through a general decree concerning primary and secondary feasts, the Most Holy Pope Leo XIII ordered that the rubrics of the Roman Breviary and Missal should be interpreted according to its norms, and that decrees to the contrary should be entirely abolished; it happened that several doubts were brought before the Sacred Congregation of Rites, which the same Sacred Tribunal subsequently resolved through other decrees. And when, in order to completely resolve controversies that had arisen, more recent decrees were added concerning the authentic interpretation of certain rubrics of both the Breviary and the Missal; the Most Eminent and Reverend Cardinal Caietan Aloisi

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Masella, then Prefect of the Sacred Congregation of Rites, adhering to the intention of the Supreme Pontiff, entrusted the task to a Liturgical Commission of revising, examining, and arranging the aforementioned rubrics, bringing them into conformity with the norms of the most recent decrees. The work was completed by the aforementioned Commission, as is evident from the example above, and was presented by the same Most Eminent and Reverend Cardinal Aloisi-Masella at Ordinary Sessions of the Sacred Congregation of Rites held at the Vatican on the date indicated; the Most Eminent and Reverend Fathers, entrusted with safeguarding the sacred rites, after mature deliberation, judged that the rubrics thus amended could be approved. December 7, 1897. This judgment was then reported to the Most Holy Pope Leo XIII by the undersigned Cardinal, Prefect of the aforementioned Congregation, and His Holiness approved it and confirmed it with His supreme authority: and He commanded that the aforementioned variations, approved by this decree, should be inserted in the new editions of the Roman Breviary and Missal, to be observed henceforth. Contrary decrees, even those worthy of special mention, notwithstanding. December 11, of the same month and year. CAMILLUS CARD. MAZZELLA, Prefect of the Sacred Congregation of Rites. L. & S. DIOMEDES PANICI, Secretary of the Sacred Congregation of Rites. The present document is an authentic copy, in conformity with the approved original. In witness whereof, etc. From the Secretariat of the Sacred Congregation of Rites, January 7, 1898. DIOMEDES PANICI, Secretary.

[*Latin ed. p. 469*]

469 FROM THE HOLY CONGREGATION FOR RITES, from Bari, it is again confirmed that the judgment, by which it had been decreed, pertains to the precedence of the Sodality of the Third Order of St. Francis in the town of Triggiano (1). By a rescript of the Congregation of Holy Rites, dated March 27th of the present year, the judgment of the Archbishop of Bari in the controversy concerning the precedence between the Confraternity of the Most Holy Sacrament and the Sodality of the Third Order of St. Francis in the aforementioned town of Triggiano, was confirmed. When the aforementioned Confraternity had requested and obtained a revision and examination of the aforementioned judgment, the same Holy Congregation, in another ordinary plenary meeting held at the Vatican, on [date redacted], before the Most Eminent and Reverend Cardinal Lord Lucas M. Parocchi, Bishop of Porto, and of S. Rufina, in place and instead of the Most Eminent and Reverend Cardinal Lord Caietano Aloisi Masella, the presiding judge, after maturely examining all that was presented by both sides, and the aforementioned judgment together with the rescript confirming it, regarding the question: Whether one should adhere to the previous decisions or depart from them? decided that: One should adhere to the previous decisions, and in this case, the precedence pertains to the Third Order.

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And thus it was decreed and it was ordered that it be observed. November 30, 1897. C. L. & S. CARD. MAZZELLA, Bishop of Praenestina, Prefect of the Sacred Roman Congregation. DIOMEDES PANICI, Sacred Roman Congregation, Secretary. PARIS, various doubts concerning genuflections, etc. The Reverend Father Augustine Dauby, Priest and Director of the pious Institute named after St. Nicholas, in the City of Paris, humbly requested a solution to the following doubts from the Holy Congregation for Rites, with the consent of his Reverend Ordinary: I. Concerning the genuflections to be made by the minister of the Mass, pri... (1) See Collection, Vol. XXX, 119.

[*Latin ed. p. 470*]

470 From the Sacred Ritual, concerning the just cause and prior permission for the celebration of the exposition of the Most Holy Sacrament on the altar, the following is asked: 1. Does the minister, who transfers the missal from the Epistle side to the Gospel side and kneels on the floor before the center of the altar, also need to kneel at the entrance to and exit from the side of the altar? 2. When the same minister ascends to the altar for the offering and purification, and descends, where should he kneel? II. The rubrics of the Missal, in the title "Ritus servandus in celebratione Missae V," number 6, prescribe: "If the tabernacle of the Most Holy Sacrament is in the altar, he should kneel with the thurible, before beginning the incensation, and he should do this each time he passes before the center of the altar." The question is: Should the priest also kneel in a private Mass: 1. when, due to the absence of a minister, he himself transfers the missal from the Epistle side to the Gospel side, and vice versa; 2. when, during the Greater Week, he passes from the Epistle side to the Gospel side to read the Passion? III. The Roman Ritual, in the title "Ordo ministrandi Sacram Communionem," states: "The priest may reverently approach the altar and say: O sacred banquet, etc. Domine, exaudi, etc. And the prayer, etc. The Lord be with you, etc." The question is: 1. Are these prayers appropriately said with joined hands before the pyx is covered and the fingers are washed? 2. Must the priest make two genuflections, one immediately after placing the pyx on the altar and before covering it, and the other before closing the door (ostiolum) of the tabernacle after the pyx has been replaced within it? IV. According to the Caeremoniale Episcoporum, for the distribution of the blessing with the Most Holy Sacrament, the celebrant himself takes the ostensorium placed on the altar; but it is customary for the deacon to take the ostensorium and hand it to the celebrant, who, after the blessing, hands it back to the deacon to be placed on the altar. The question is: Is it permissible to observe the rite prescribed for the fifth day of the week in the celebration of the Lord's Supper, and on the feast of the Most Holy Body and Blood of Christ, before and after the procession of the Most Holy Sacrament, in this double transfer of the ostensorium? V. Is it permissible to sing something

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in the vernacular language: 1. During the solemn Mass, while the Holy Communion is being distributed for a noticeable period? 2. In the solemn procession of the Most Holy Sacrament, alternating with liturgical hymns?

[*Latin ed. p. 471*]

FROM THE SACRED RITUALS, 471 VI. According to the *Caeremoniale Episcoporum* in the solemn Office for the Nones, and in the Weekly Laudations, the Masters of Ceremonies and Assistants are vested in black. The following questions are asked: 1. Can this be done from the beginning of Matins? 2. Can two acolytes, with lighted candles, assist the reader of the seventh reading of the Gospel with a homily, during the reading of the Gospel? And the Sacred Congregation, after considering the report of the undersigned Secretary, the unanimous vote of the Liturgical Commission, and all matters carefully, decided to respond as follows: Regarding I, concerning the first question: A single genuflection must be made on the floor in front of the center of the Altar; concerning the second question: Both before ascending to the Altar, and after descending from it, a genuflection must be made on the floor. Regarding II. Negatively to both. Regarding III. Concerning the first part: Negatively, and the prayers must be said before the ablution and extension of the fingers. Concerning the second part: Affirmatively, according to the Decree in Rome, dated December 23, 1862, and the practice of the Basilicas of the City. Regarding IV. Either the rite prescribed in the *Caeremoniale Episcoporum*, book II, chapter 32, § 27, is observed, or, according to Roman practice, the Deacon can hand the censor to the celebrant, or receive it from him, both standing. Regarding V. Negatively to both. Regarding VI. If there is no legitimate custom, Negatively, and the *Caeremoniale Episcoporum*, book II, chapter VI, § 16, must be observed. And thus it responded. On January 14, 1898. C. L. & S. CARD. MAZZELLA, Bishop of Praenestinus, Sacred Roman College, Prefect. DIOMEDES PANICI, Secretary. BELLUNEM and FELTREN. Doubts concerning the consecration of altars. The Most Reverend Salvator Ioannes Baptista Bolognesi, Bishop of Belluno and Feltre, who, through a rescript of the Congregation of Sacred Rituals, dated November 23 of the past year, 1897, obtained the faculty of consecrating, either by himself or through a priest delegated by him in the name of the Apostolic See, certain altars...

[*Latin ed. p. 472*]

472 FROM the Sacred Congregation of Rites, employing a shorter rite and formula, according to the instruction transmitted to it by the same Sacred Congregation, humbly offers the following solution to the doubts raised: I. Whether water, with which mortar or cement is made, can be blessed with the formula inserted in the Roman Ritual, in order to strengthen the slab or stone placed above the tomb of relics? II. Whether the mortar itself should be blessed? III. Whether the aforementioned blessing,

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both of the water and of the cement, and also the faculty of consecrating altars, in which the tomb stone is moved due to the omission of cement, can be delegated in the name of the Apostolic See to a simple priest, by virtue of a Rescript? And the aforementioned Sacred Congregation, after considering the report of the undersigned Secretary, and also the careful opinion of the Liturgical Commission, decided to respond as follows: To I. Negatively, but in the blessing of such water, the formula found in the Roman Pontifical itself should be used. To II. Affirmatively, according to the Roman Pontifical. To III. Affirmatively, with regard to both parts. And thus it responded. On January 21, 1898. C. CARD. MAZZELLA, Bishop of Praenestinus, Sacred Roman College, Prefect. L. * S. DIOMEDES PANICI, Sacred Roman College, Secretary. Regarding a doubt concerning the Mass for the Dead. In the synodal acts of the diocese of Bugellensis, page 3, it is read: "The Mass should also be sung, if possible, at the funerals of the poor, in the presence of the body; but if it cannot be sung, it should be said on the days permitted by the decrees of the Sacred Congregation of Rites." Therefore, the following was requested from the aforementioned Sacred Congregation: "Whether the concession granted on April 4, 1878, to the churches or chapels of the aforementioned diocese, to celebrate the Mass for the Dead twice in each week, excluding double feasts of the first and second class, holy days of obligation, weekdays, vigils, and privileged octaves, should also be extended to the Mass for the Dead without singing, or the recited Mass?"

[*Latin ed. p. 473*]

FROM THE SACRED RITUALS, 473: And the Sacred Congregation, upon the report of the undersigned Secretary, and also considering the earnest opinion of the Liturgical Commission, and after careful deliberation, decided to respond as follows: It is not permissible to celebrate Mass on the day of death or burial for a poor deceased person. And thus it responded. January 28, 1898. C. CARD. MAZZELLA, Bishop of Praenestinus, Prefect of the Sacred Congregation. L. h& S. DIOMEDES PANICI, Secretary of the Sacred Congregation. DOUBT concerning the use of placing the Host within two crystals, and placing it in the Tabernacle without any other enclosure. In many churches and chapels in Galliae, the practice has become prevalent in recent times of placing the sacred Host, which is to be exposed in the Ostensorium, within two crystals that fit together perfectly, and then placing it in the Tabernacle without any box or enclosure. Therefore, the Sacred Congregation inquired: Is such a practice permissible? And the same Sacred Congregation, upon the report of the undersigned Secretary, and also considering the earnest opinion of the Liturgical Commission, and after mature deliberation, decided to respond to the proposed question: Affirmative; provided that the sacred Host is well enclosed within the aforementioned crystals, and

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that the crystals do not touch, in accordance with other decrees. And thus it responded on January 14, 1898. C. CARD. MAZZELLA, Prefect of the Sacred Congregation. L. * S. D. PANICI, Secretary of the Sacred Congregation. FROM THE SACRED CONGREGATION OF THE HOLY OFFICE: DOUBT as to whether baptism given to dying adults, lacking faith and sorrow, is valid. — Instruction to the Apostolic Vicar [Tohe-Kiang — June 6, 1860. In the sheets sent by A. Tua to the Sacred Congregation for the Propagation of the Faith, a certain missionary was frequently called upon to administer baptism to dying adults, who, although they profess...

[*Latin ed. p. 474*]

474. From the Sacred Congregation of the Inquisition: Those who propose to receive baptism willingly declare that they will truly renounce the devil, believe in God, and repent of their past lives; however, the circumstances leave considerable doubt regarding the sincerity of such dispositions. Furthermore, a certain missionary, wishing to confer the sacrament, and on the one hand out of reverence for the Sacrament, and on the other hand for the eternal salvation of those already dying and infirm, conferred baptism under this condition: "if you are truly disposed," expressly intending not to baptize those who were not in good dispositions. Hence, the following questions arose: 1. Whether such a manner of conferring baptism is licit or not. Moreover, it was observed that some of the infirm, having received baptism under such a condition, afterwards survived, and indeed, on several occasions, completely recovered from their infirmity, and were able to prepare themselves more properly; and the question was raised: 2. Whether those who survived and were better disposed should be indiscriminately baptized again, at least under this condition: "if you were not baptized." The Most Holy and Universal Congregation of the Inquisition, to whose judgment these doubts were presented, after mature examination of the same, ordered that a response be given with the present instruction, on the fourth day of August, 1870. The matter under consideration requires three dispositions in an adult in order to rightly receive baptism: namely, faith, penance, and the intention to receive it. Faith is certainly necessary, whereby the adult must be sufficiently instructed, according to the measure of his own understanding, concerning the mysteries of the Christian religion, and must firmly believe in them; and penance is also necessary, whereby he must grieve over his sins, and elicit either contrition or attrition. And thirdly, the intention, or will, to receive this Sacrament is required, and if this is lacking, the character of baptism is not imprinted in the adult. But while faith and penance are required in an adult in order that he may licitly receive the sacrament and obtain the fruit of the sacrament, the intention is necessary in order that he may validly receive it; therefore, he who is baptized as an adult without faith and penance is baptized illicitly, but validly; and conversely, he who is baptized without the will to receive the

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sacrament is neither licitly nor validly baptized. With these premises, it will easily be recognized that the missionary acted improperly in the case proposed, when, administering baptism to a dying adult, he did not have the dispositions required for licitly administering baptism, nor did he have those required for him to validly receive it.

[*Latin ed. p. 475*]

From the Most Holy Congregation of the Inquisition, number 47, it is required. For, there is doubt whether an adult, near to death, has been sufficiently instructed in the mysteries of the faith, and whether he has sufficiently believed them, and there is doubt whether he sincerely repents of his past life, when the necessity of death presses upon him; the sacrament must be absolutely administered to him without any condition. However, if there is doubt whether he truly intends to receive baptism, and if, after a diligent examination of this intention, doubt still remains, baptism should be conferred under a condition, provided that he is capable of receiving baptism. Nevertheless, so that no rule may be lacking for such a missionary, the decree of the same Most Holy and Universal Congregation of the Inquisition, issued on the fifth day of the week, before the Most Holy Father, on August 23, 1703, concerning the question proposed by the Bishop of Quebec, is transmitted to you. Furthermore, the missionary does not act properly when, conferring baptism under a condition, he intends not to baptize, even if the recipient has good dispositions: for in this case, the missionary must only intend to baptize to the extent that the recipient is capable of baptism, that is, that he sincerely desires to receive it. Finally, with regard to the second doubt, it should be noted that baptism should not be conferred under a condition indiscriminately and rashly, and it is only permissible to use a condition when there is a prudent and well-founded doubt as to whether someone has been validly baptized, as is stated in the Roman Catechism, page 2, on the Sacrament of Baptism, number 57. Furthermore, if the aforementioned doubts are not sufficient for the missionaries to resolve, they will bring them to the attention of the Most Holy Congregation, so that, after all circumstances have been considered, they may be removed. DOUBTS proposed by the Bishop of Quebec. It is asked whether a missionary can confer baptism and other sacraments upon a sick barbarian, to whom the mysteries of the religion have been explained, and who has promised to observe (the commandments), but only for the reason that he does not wish to contradict him. Many reasons remain to doubt whether the dying man is truly well instructed, because the missionary, being unskilled and inexperienced in the barbarian language, could only briefly explain the sublime mysteries, which exceed the understanding of barbarians, and when the dying man affirms that he understands everything, nevertheless, it is only superficially, and the brevity of the explana-

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[*Latin ed. p. 476*]

-476 From the Sacred Congregation, it is urged that the dying man should say this out of complaisance, so that if another were to approach him and say that all that has been said to him is nothing but mere fables, the barbarian, out of a desire to please, would also say, "They are fables." This, however, can arise from two principles: first, because he does not understand what is being said to him; second, from the lightness of his mind, so that at the very moment he says "I believe and I will do," he truly believes and intends to fulfill, but with the slightest reason, he will change his mind; yet it is certain that the barbarian would not want to be burned in hell, and thus his affirmation may be true and from the depths of his heart. On Thursday, January 25, 1703, in a general meeting held before the Most Holy Congregation, after the aforementioned question had been proposed and the votes of the Cardinals of the Holy Roman and Eastern Rites, who were Inquisitors General, had been heard, the Most Holy Congregation ordered that the following be written: "It is not permissible, if the missionary is morally certain, as is asserted in the doubt, that the sick barbarian has not sufficiently, according to the measure of his own understanding, understood the mysteries of the Christian religion, or that he does not sufficiently believe in them, and for the sole reason of not contradicting, promises to observe the commandments of his religion. "However, if the missionary prudently believes that the sick barbarian, when he says 'I believe and I will do,' truly believes and seriously promises to observe, as above, he ought to be baptized. If, however, the missionary has doubts about the aforementioned, and time does not allow him to better instruct him, and the danger of death is imminent, he ought also to be baptized under a condition."

DOUBT: Whether the ordination of a Deacon is valid, to the extent that the ordaining Bishop did not physically touch the head of the one being ordained.

Most Blessed Father, N. N., prostrate at the feet of Your Holiness, humbly explains that two years ago he was admitted to the ordination of the Diaconate. Today, however, he has doubts about that ordination. He remembers well that the Bishop, when laying his hands upon him, did not touch him physically; he was troubled by this for some time; but thinking that physical contact is not essential, he soon afterwards was promoted to the priesthood. However, having recently learned that the imposition of hands without bodily contact renders...

[*Latin ed. p. 477*]

From the Sacred Congregation of the Inquisition, number 477: A certain individual, troubled by a new fear, questions whether his ordination

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should be repeated under a condition. – That it may be so. Feast Day, Thursday, January 26, 1898. In the General Congregation of the Most Holy and Universal Inquisition, held by the Most Eminent and Reverend Cardinals, General Inquisitors, concerning the aforementioned doubt, and after the vote of the Most Reverend Consultors, the aforementioned Most Eminent and Reverend Cardinals ordered that a response be given. Let the Decree of Feast Day, January 2, 1875 be given: namely, that the Ordination to the Diaconate may be repeated under a condition, which repetition may be performed by any Catholic Bishop, in secret, at any time of the year, even in a private chapel, by uttering the words. On Friday, the first day of January 28 of the same month and year, during the customary audience granted to the Reverend Father Doctor, Assessor of the Holy Office, a report on all of this was made to His Holiness, Pope Leo XIII. The same Most Holy Lord confirmed the resolution of the Most Eminent and Reverend Fathers and deigned to grant all necessary and appropriate faculties. I, Canon Mancini, of the Sacred Roman Church, Notary, present the following doubt: Whether an ordination to the priesthood, received with the imposition of hands both the first and second time, without any intention, and then affirmed, is valid. Most Blessed Father, N. N., prostrate at the feet of Your Holiness, humbly explains that he was ordained a priest with this intention: Doubting whether he was suitable or not for the priesthood, on the one hand, he wished to remove the intention of becoming a priest, and on the other hand, he wished to introduce it. Finally, he said this: "I place that intention which I will certainly determine at some point during the ordination." Still doubtful, he received the first and second imposition of hands; and only when he reached the consecration of hands did he resolve to become a priest. Now, troubled by his conscience, he asks whether the ordination he received is valid. Feast Day, Thursday, January 26, 1898. In the General Congregation of the Most Holy and Universal Inquisition, by the Most Eminent and Reverend Cardinals, General Inquisitors, concerning the aforementioned doubt...

[*Latin ed. p. 478*]

478 FROM THE SACRED CONGREGATION OF THE INQUISITION, concerning the aforementioned doubt, and after having received the opinion of the Most Reverend Consultors, it was ordered that a response be given: "Let it be so." On Thursday, the 28th day of the same month and year, during the customary audience granted to the Reverend Father Assessor, a report on all of this was presented to His Holiness Pope Leo XIII, who approved the aforementioned resolutions and decrees of the Most Reverend Fathers. I. CANON MANCINI, Secretary of the Sacred Roman and Universal Church.

BRIEF: A plenary Indulgence is granted to the faithful who, for thirteen consecutive weekdays or Sundays, shall dedicate themselves to pious med-

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itations or prayers, or to other exercises of piety for the glory of God and the honor of Saint Anthony of Padua. LEO XIII, Pope. For the perpetual memory of this matter.

Letters recently presented to Us by Our beloved son, Lawrence Caratelli, Minister General of the Order of Friars Minor of the Conventual Franciscans, filled Our heart with a pleasing sentiment and fully answered Our desires, indicating that he desires and hopes that the cult of Saint Anthony of Padua may be increased day by day and promoted in all places. Indeed, all Catholics have their own reason for honoring the Blessed Anthony with special devotion, cultivating him with obedience. For he is accustomed to bestow singular graces and daily benefits upon the Christian people, so that the Church itself encourages every faithful person to turn to him if they seek miracles. Furthermore, in these calamitous times, Saint Anthony of Padua is, as it were, associated with Saint Vincent de Paul, and both, amicably united, conspire to alleviate or at least lessen the sorrows and miseries of the poor, so that one provides bread through benefits, while the other distributes it. And in many temples, alms are collected for the sustenance of the needy.

[*Latin ed. p. 479*]

From the SECRETARY OF BRIEF 479, there is a pleasing image of Saint Anthony carrying the Divine Child in his arms, and as if imploring graces from Him, which image seems to invite, in a certain way, the faithful and to encourage them to seek benefits, which, having received, they are obligated to give a stipend, which is to be used in the purchase of bread for the poor. Consequently, the Vincentian Societies, which, by their institute, dispense necessary food to the families of the working class, promise themselves a strong support and pillar from Anthony. Since these things are so, moved by fervent prayers, We grant, and with a pious intention, directed towards the glory of God and the salvation of souls, to all and each of the faithful of both sexes, who, truly penitent and having confessed, and having received Holy Communion, have devoted thirteen consecutive and uninterrupted days, or thirteen Sundays likewise consecutive and uninterrupted, at any time within the year, choosing, at their own discretion, pious meditations or prayers or other exercises of piety for the glory of God and the honor of the same Saint, that those who have performed this during these days or Sundays, We mercifully grant, in the Lord, a Plenary Indulgence for all their sins, and remission thereof, or applicable to the souls of the departed. This applies to all, without exception. This is valid for the present and all future times. We decree that the validity of the present document, or copies thereof, even handwritten and signed by a public notary, and sealed with the seal of a person holding an ecclesiastical office, shall have the same full force and effect as if the original document were presented; and We command that a copy of the present document (for if this is not done, We do

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not wish these to be considered valid) be sent to the Secretariat of the Holy Congregation for Indulgences and Sacred Relics, according to the Decree issued by the same Holy Congregation on January 19, 1756, and approved by Our Predecessor, Pope Benedict XIV, of blessed memory, on the 28th day of the same month. Given at Rome, at Saint Peter's, under the Fisherman's Ring, on the 1st day of March, 1837, in the twentieth year of Our Pontificate. For the Lord Cardinal, MACCHI, NICOLAUS MARINI, Substitute.

[*Latin ed. p. 480*]

480 FROM No. 3, THE APOSTOLIC PENITENTIARY CONCERNING RESTRICTIONS ON DAYS OF FASTING. The Reverend Evaristo Mosconi, Parish Priest of St. Mary of Grace near Montepulciano, proposed the following doubts to the Holy Penitentiary: 1.º On days when the use of lard is permitted, may one freely eat those small pieces of lard that remain after they have been fried to extract the lard, if one uses the lard itself to season soups, polenta, omelets, etc.? 2.º On days of strict abstinence, in which eggs are forbidden, is it permissible to lightly moisten herbs, for example, artichokes, with beaten egg? 3.º On days of strict abstinence, is the use of oil in which meat has been fried permitted, or at least is it permitted on days of simple abstinence? – The Holy Penitentiary, concerning the aforementioned doubts, responded as follows: To 1. Affirmative, provided that they remain part of the seasoning. To 2. A seasoning made from eggs, when eggs are prohibited, is not permitted. To 3. Those who act in this way should not be disturbed. Given in Rome, in the Holy Penitentiary, on the 17th of November, 1897. B. POMPILI, Secretary. A. C. MARTINI, Secretary.

[*Latin ed. p. 481*]

COMMENTARY 481: "Given the management of affairs and judicial deliberations concerning the causes of the Servants of God, it could easily arise, in these most sorrowful times, that abuses would occur. Therefore, after careful consideration of the Decrees of Pope Alexander VII, dated July 19th and 23rd, in the year 1661, it was decided that, by firm law, no such writings whatsoever should be printed anywhere outside the City; and that, during the aforementioned conditions of public affairs, or until otherwise provided by the Apostolic See, these writings should only be printed by those printers who are properly dependent on and approved by the Office and authority of the Most Holy Palace, and who are approved by it. If any of these writings should be excused in this manner, they must be considered entirely null and void by the Officials of the Holy Congregation. And thus it was declared and established on January 30th, 1878."

Fr. T. H. MARIA Cardinal MARTINELLI, S. R. C., Prefect (1).

From this decree, we understand that the law, by which a single Cameral printer could amend matters brought before the printers in the causes of the Servants of God, has now lapsed, and that Postulators, or other actors,

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may employ any printer whom they deem suitable and discreet; hence, some documents have been divulged which should have been kept secret. Consequently, the Apostolic See has reaffirmed the sanctions of Alexander VII, by which it was forbidden to print such documents outside the City, and has superseded the Cameral printers, subjecting all others to the authority of the Most Holy Palace.

But everyone understands that this decree concerns documents that are prepared while the cause is still pending before the Holy Congregation of Rites, since the language refers to completed writings or writings that are to be printed, and that these should not be entrusted to any printers, whether within or outside the City, unless they are dependent on the authority of the Most Holy Palace. The reason for this provision is temporary, as it is based on political conditions, and in the future it will be subject to the will of the Roman Pontiff; thus, there is no doubt that it concerns preventing the publication of documents while the cause of the Servants of God is still pending before the Holy Congregation of Rites.

(a) Acts of the Holy See XI, 566. Acts, Vol. XXX, page CCCLVI, 31.

[*Latin ed. p. 482*]

482 COMMENTARY: Furthermore, any law or decree of the prince is required to enforce any prohibition. However, we, at least in the present time, know of no law, nor any decree, by which the publication of the acts in the causes of the Servants of God is prohibited after the completion of the Canonization. Indeed, such acts, while the cause is pending, have been printed by the authority of the Promotor Fidei, whose authority ceases in the causes of the Servants of God after the completion of the Canonization. Therefore, while the cause is pending, the law is satisfied; once the cause is completed, and the authority of the Promotor Fidei has ceased, no other authority is required to reprint these acts, or others, except either the Episcopal authority, or that of the Most Holy Palace of the Apostolic See. To reach such a conclusion, it would be necessary to either present some decree of the Sacred Congregation of Rites, by which it is established that, even after the completion of the Canonization, such acts cannot be reprinted and published again without the permission of the aforementioned Congregation; which decree is not known to us at present, and which contradicts practice, since, as we have said, such acts and others have been published after the completion of the Canonization without the permission of the Sacred Congregation of Rites; or that such a prohibition is entirely established by the present law of Leo XIII; which must be demonstrated; especially since we are unaware of such a thing from the Prefects themselves of that same Congregation. Therefore, since no law, and no decree contrary to this exists, our conclusion will remain firm. Nevertheless, in order to express our opinion on this matter with the utmost humility, it would be advisable for the Most Eminent Prefects of the Sacred Congregation of Rites to issue

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a decree by which it is established that, even after the completion of the Canonization, those things pertaining to the Beatification and Canonization of the Servants of God cannot be reprinted and published again. For there are many things in such acts that it is prudent to remove from the public view; for example, when it is a question of persons who, either in good faith, or out of hatred and enmity, stirred up persecutions, accusations, and calumnies against the Servants of God, and who are of particular ecclesiastical dignity; of certain admonitions freely given by the Servants of God to men of any rank, who would otherwise enjoy a good reputation, unless their vices were laid bare by those admonitions; of things which the Servants of God sometimes suffered from the devil, and of the temptations with which they were tested, which sometimes are so terrible that they are almost unbelievable.

[*Latin ed. p. 483*]

COMMENTARY 483: Those things appear weak; concerning visions, revelations, and prophecies, whether published concerning private individuals, or concerning supreme princes and empires, in which sometimes the causes are indicated, or incited in them, or the impending divine indignation. But most of these prophecies, since they sometimes depend on a condition which is hidden from men, therefore either do not come to pass, or come to pass more slowly, and are turned into a jest by many, and even the sanctity of the Servants of God, which is altogether independent of these free gifts, is held in derision. And the same may be said of visions, which are not infrequently obscure to human understanding, and are subject to multiple interpretations. For this reason, it seems not very in accordance with the laws of prudence to indiscriminately publish these and other things, since from them greater evils than good might arise. It would be advisable, therefore, that even after the canonization of a saint, the Prefects of the Congregation of Sacred Rites reserve to themselves knowledge of the acts which they wish to publish, and that they permit the publication of those which are good and useful, while denying publication to those which are incongruous and useless. But this is for those to decide to whom it pertains. 70. Rightly and justly, Leo XIII decreed that collections of decrees from the various Roman Congregations should not be published unless first permission has been obtained, and the conditions prescribed by the moderators of each Congregation have been observed. For such collections form an authentic code of those things which, in individual cases, and in the questions proposed by each Congregation, have been defined and answered; for which reason it is necessary that it should be clearly established whether, indeed, such a definition and answer has been given, as is asserted in the collections, so that both pastors of souls and the faithful of Christ may truly follow what has been prescribed and promulgated by legitimate

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authority. This, however, will be clearly established if such collections are published with the authority with which decrees are issued. It has happened not infrequently that decrees which were plainly spurious, or had been revoked, were published, by which bishops, and the faithful of Christ, were deceived, and for which reason the Prefects of the Roman Congregations were questioned about ignorance, negligence, and about the publication of false things. To eliminate such dangers, the Pope prudently and wisely decided, as we read in the cited passage, § 33. Therefore, those who collect the decrees which are published by the various Roman Congregations, after diligent and careful examination...

[*Latin ed. p. 484*]

484 Those who undertake to collect authentic decrees must diligently distinguish them from spurious, doubtful, or revoked ones; and in no way can such collections be made public unless they have previously obtained permission to publish the completed collection. However, once this permission is obtained, they must also ensure that they observe the conditions prescribed by the moderators of the individual Congregations. It must be noted, however, that in this paragraph, the term "collections" is being used; therefore, those who publish one or another decree of the Roman Congregations, either in journals or in periodicals, are not subject to this law, since such publications cannot be considered "collections."

What, then, if someone publishes collections of such decrees without first obtaining the appropriate permission from the moderators? R. From what we have stated on pages 129 and 146 et seq., such collections are not to be considered prohibited, since the legislator has not explicitly declared them to be so.

What, however, if someone has obtained permission to publish, but has not observed the conditions prescribed by the moderators? R. We believe that in this case, such collections are not subject to prohibition, since there is no law that subjects them to prohibition. However, the moderators of the individual Congregations do have the power to prevent the publication of collections of decrees if the prescribed conditions are not met; nevertheless, they do not have the right to declare them prohibited, if the imposed conditions are disregarded by either the compilers or the publishers. Therefore, such collections can certainly be brought before the Congregation of the Index; and they would rightly be prohibited if the imposed conditions affected the substance of the decrees, for example, if the moderators had prescribed that certain decrees should not be included, or that others should be included, etc.; but before a judgment, they should not be considered prohibited.

Furthermore, this is also demonstrated by a fact. When, in the year 1629, a doubt was brought before the Sacred Congregation for the Propagation of the Faith regarding whether translations of the Holy Council of Trent into

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other languages should be considered prohibited, this matter was referred to the Most Eminent Fathers of the Sacred Council of Trent to resolve the doubt; these Fathers, on July 2nd, considered that they should indeed be prohibited, but at the same time, they informed the Congregation of the Index to issue a decree prohibiting them: "S. C. Concilii 2 Tu-..."

[*Latin ed. p. 485*]

485 "On the 16th of March, 1629, an article concerning the order of the Most Holy Divine Name was submitted to the Congregation of Propaganda Fide. The question was raised whether translations of the Holy Council of Trent into other languages were permitted, and whether these translations were included in the blessed and venerable Constitution of Pope Pius IV (a), which forbade such interpretations and glosses. The Cardinal Prefect of the Council of Trent judged that the translations of the Council of Trent from the Latin language into French, or other languages, were prohibited; therefore, it should be communicated to the Congregation of Propaganda Fide that all such translations made without special authority from this Holy Apostolic See should be absolutely prohibited (b). Indeed, it is known that the Roman Congregations have forbidden, by their own authority, the printing of decrees promulgated by themselves, setting aside the penalties imposed on others, not by prohibiting the work itself; this is evident from a decree issued by the Congregation of Rites on February 14, 1632, which reads as follows: 'In this Congregation, it was decreed that, in the future, it shall not be permitted to print decrees issued by this Holy Congregation without the permission of the same Congregation obtained in writing, under a penalty of one hundred ducats of gold from the Camera, incurred by the printers themselves. And if the decrees of this Holy Congregation are found cited in other works already printed, no credence shall be given to them, unless they have been signed by the Secretary of the aforementioned Congregation' (c). This decree was also renewed in the year 1856, when the Printing Office of the Congregation of Propaganda Fide was granted the faculty to print the third edition of the authentic decrees collected by Cardinal Lamberti; it is stated in the aforementioned document: 'With the exception of the decree of February 14, 1632, which stipulated that no one shall be permitted to print the decrees of the Holy Congregation without the permission of the Holy Congregation obtained in writing, under the penalties expressly stated therein, under pain of the Holy Congregation' (d). Therefore, since the Congregations themselves, from which the decrees are issued, do not prohibit collections, even if they are produced without due respect for their authority, it is clear that they cannot prohibit the printing of a work, even if the conditions are not observed."

COMMENTARY:

(a) Const. *Benedictus Deus*, by which the Council of Trent was con-

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firmed. *Bullar. Rom.*, Vol. VII, p. 244. Editio Taur. 1882.

(b) *Collectanea S. Congr. de Propaganda Fide*, p. 765, n. 1867.

(c) *Ap. Cardellini Decreta Authentica S. Rituum Congr.*, Vol. I, p. V.

(d) Ibid.

[*Latin ed. p. 486*]

486. It has been determined by public law; therefore, we hold that it is not permissible to publish any decree, either of the Supreme Sacred Congregation [of the Holy Office], or of the Sacred Congregation of Indices, which establishes this, and that collections of decrees printed in this manner cannot be considered valid by law. After these remarks, it will be unnecessary to indicate the principal collections of decrees of the Holy Roman Congregations. These are: Pallottini Collectio omnium Conclusionum et Resolutionum, quae in causis propositis apud S. Congregationum Cardinalium S. Concilii Interpretum prodierunt ab eius institutione. [Rome, from the Polyglot Printing Press of the Sacred Congregation for the Propagation of the Faith, 1879.] Authentic decrees of the Sacred Congregation of Rites, collected from its records and promulgated with its authority. [Rome, from the Polyglot Printing Press, etc., 1898.] Authentic decrees of the Sacred Congregation for Indulgences and Sacred Relics, from the year 1668 to the year 1882. [Ratisbon, 1883.] Collectanea in usum Secretariae S. Congregationis Episcoporum et Regularium cura A. Bizzarri Archiepiscopi Philippensis Secretarii edita. [Rome, from the Polyglot Printing Press, etc., 1885.] Collectanea S. Congregationis de Propaganda Fide, seu Decreta, Instructiones, Rescripta pro Apostolicis Missionibus ex Tabulario eiusdem S. Congregationis deprompta. [Rome, from the Polyglot Printing Press, etc., 1893.] 71. In this paragraph, Apostolic Vicars are those who, in territories assigned to them, which are inhabited by non-believers, heretics, or schismatics, exercise the functions of order and episcopal jurisdiction, whether they are designated as bishops or not, and who are subject to the authority of the Sacred Congregation for the Propagation of the Faith. Apostolic Missionaries, on the other hand, are priests who, approved by the Sacred Congregation for the Propagation of the Faith, reside in the aforementioned places and exercise their ministry under the authority of the Apostolic Vicars. Furthermore, it is indicated to all that, in publishing books, the decrees promulgated by the Sacred Congregation for the Propagation of the Faith must be faithfully observed. This matter has been further addressed in decrees published in the Collectanea of the same Sacred Congregation, pages 765 and following. In the general congregation held on December 6, 1655, the following decree was issued: "The Sacred Congregation, moved by just reasons, after deliberation, decreed that..."

[*Latin ed. p. 487*]

COMMENTARY 487: "It is forbidden to any person, whatever his rank

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or condition, to print, either his own work or that of another, under any pretext whatsoever, whether by himself or by others, without the express permission of the Holy Congregation, duly obtained in writing, in the usual form, etc., under pain of deprivation of office, suspension, both active and passive, suppression of the same work, and excommunication by a general sentence, which penalties are incurred by the very act, and are reserved solely to Our Most Holy Lord [the Pope]. Furthermore, it is commanded that, in addition to the foregoing, anyone who obtains such permission must print it at the beginning of the work itself, under the same penalties, notwithstanding any privileges, faculties, or licenses, even those granted or conceded orally, which all and each of these are hereby revoked in every way and are to be considered as revoked."

Therefore, by virtue of this decree, no Missionary Apostolic, however distinguished his rank, without the authority of the Holy Congregation, which is entrusted with propagating the Christian faith, may print and publish any book, whether composed by himself or by another, in those places where the apostolic ministry is exercised, and which are subject to the jurisdiction of the aforementioned Congregation. However, a modification to this decree was introduced on December 28, 1770, by which it was permitted, within the Chinese Empire, to print small doctrinal works, catechisms, instructions, etc., with the license of the respective Bishop or Apostolic Vicar.

The Holy Congregation decreed in no way to authorize the publication, within the Chinese Empire and the Kingdom of Tonkin, of any writings or books, whether directly or indirectly concerning religion, or discussing ecclesiastical matters, without a prior examination and approval by the aforementioned Holy Congregation. However, this law is excepted for small doctrinal works, catechisms, instructions, and prayers, which are useful for the daily use of the faithful; nevertheless, under this condition that they may not be distributed among the common people unless they have first been examined and approved for publication by the respective local Bishop or Apostolic Vicar.

(a) However, this excommunication was abrogated after the Apostolic Constitution, in accordance with the moderation whereby sentences of censure are limited.

(b) Collectanea, no. 1869, page 765.

(c) Collectanea, no. 1870, page 765.

[*Latin ed. p. 488*]

488 COMMENTARY. And by this law, all Apostolic missionaries are still subject to the Holy Congregation for the Propagation of the Faith. Although, on January 3, 1777, it was granted to the Apostolic Vicar of Sutchuen that he might publish books in the Chinese language, in Latin

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or another idiom, for the use of Catholics in that region, such as *Imitatio Christi*, as we read in the petition, the Gospels and Epistles of the entire year, the Catechism of D. de Fleur, the manners of the Israelites and Christians (by the same author); the *Acts of the Martyrs* by D. Ruinart; and this was permitted with the approval of the same Holy Congregation, not without (a), and on August 31, 1840, a letter was sent to the Apostolic Vicar of Siam, declaring that the decree of the year 1770 was in no way extended by the broad decree of the year 1777; moreover, the permission was personal, granted to the Apostolic Vicar of Sutchuen alone. "As I had informed you, through the President of the Seminary, in a private meeting concerning the affairs of the Chinese missions, held on August 6, the letter of A. T. of June 26 was proposed and read, in which you requested the faculty to print and publish certain works of controversy, if any should seem necessary or useful, notwithstanding the decree of the year 1770, which you believed to be confirmed or extended by another of January 8, 1777. The SS. PP., having considered this matter with all due deliberation, and moved by the reasons which provoked the aforementioned decree of the year 1770, did not wish to derogate from it, nor to open the way for similar requests, all the more because in the same decree, power is left to the Apostolic Vicars to print small doctrinal works, catechisms, instructions, and prayers, which serve the daily use of the faithful. In other respects, no urgent necessity is seen to print books before they are presented to the Holy Congregation for examination, since no inconvenience or detriment appears to be likely to arise from any delay in such an examination. Furthermore, I do not fail to remind A. F. of the decree of the year 1777, which in no way (a) allows: "Considering the particular circumstances, it is permitted to the Apostolic Vicar, within his district, after his own examination, and with the approval of the same Holy Congregation, to publish, even in the Chinese language, books already composed and published in Europe, with common ecclesiastical approval, except those prohibited by the Holy See, either specifically or generally, in the *Index Expurgatorius*, among which some appear to be from those recently mentioned by the same Vicar. In all other respects, the Decree of the year 1770 is to be observed." *Collectanea*, no. 1871, page 766.

[*Latin ed. p. 489*]

COMMENTARY 489: "To confirm or extend, in general, what was published in the year 1770, but which was only applicable personally to the Vicariate Apostolic of Suchu, or to grant a faculty to the Vicariate Apostolic of Suchu, which was not common to other Prelates. Therefore, if any work of the Old Testament has something to be printed and disseminated by means of the press, which was not excepted in the decree of the year 1770, it must first be examined and a license obtained from the Sacred Congregation (a)." Therefore, except for small doctrinal works, catechisms, instruc-

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tions, and prayers, which serve the daily use of the faithful, neither the Vicar Apostolic nor any Apostolic Missionary, except with the permission of the Sacred Congregation for the Propagation of the Faith, can publish or print any book that directly or indirectly treats of religion, or that discusses ecclesiastical matters, as is prescribed in the decree of the year 1770; for this reason, since we are subject to a hateful law, we do not believe that the law can be extended to other books, either those that directly or indirectly treat of religion, or those that discuss ecclesiastical matters, but rather those that deal with historical, geographical, topographical, natural, and other knowledge that in no way relates to religion. We do not find any decree in the cited *Collectanea* (b) concerning such publications. Our readers will rightly understand that 1°. By means of this prohibition, Apostolic Missionaries (*Collectanea* n. 1878, p. 768). [b) It should be noted, however, that it is not permitted for the printers of the Sacred Congregation for the Propagation of the Faith to produce translations of books from the Italian or Latin language into foreign languages, unless with the Italian or Latin text inserted. This is evident from a decree issued on February 5, 1651. "To avoid errors, and especially those concerning the faith or the dogmas of the Catholic religion, which often occur in translations of books from the Latin or Italian language into foreign languages, and especially into Oriental languages, due to the ignorance or lack of knowledge, or even malice, of the translator, the Fathers have judged it necessary to order, as they strictly prescribe in the aforementioned decree, that the modern and, for the time being, the printers of the Sacred Congregation and their ministers, and finally the superintendent of the printing house itself, must henceforth not print or have printed in said printing house books translated from the Italian or Latin language into foreign languages, unless they are accompanied by the Italian or Latin text from which the translation was made. The same must be observed if books in foreign languages are to be printed, so that they are not given to the press otherwise than with their Latin or Italian interpretation, and under the penalties of the aforementioned Sacred Congregation, which are determined at its discretion for those who transgress this decree, according to the nature of the offense." *Collectanea* n. 1868, p. 765. Since this decree refers only to the printers of the Sacred Congregation for the Propagation of the Faith, and nothing is stated about missionaries, we believe that for these, neither such books are prohibited if they are published without the Latin or Italian text, nor do they incur any penalties if they read them.

[*Latin ed. p. 490*]

490. COMMENTARY: The aforementioned law binds only those books that are to be submitted to the Holy Congregation for the Propagation of the Faith, and not others that are not subject to its authority. 2°. Consequently, this prohibition does not apply in those places where an ecclesi-

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astical hierarchy is established. 3°. This does not include those Apostolic Missionaries who have received such a title from the Holy Congregation for the Propagation of the Faith, but who do not reside in mission territories among foreign nations; for these are subject to their respective bishops, and are considered Missionaries *ad honorem*, and not properly so-called; therefore, they are not bound by the same laws.

72. In this paragraph, Pope Leo XIII modified the provisions of the ancient law; for formerly, the books to be examined and approved were examined by the Ordinaries of the places in which they were printed. This rule was certainly sanctioned by the Tenth Session of the Council of Trent. "If any book is to be printed in the illustrious city of Rome, it shall first be examined by the Vicar of the Supreme Pontiff, and the Master of the Sacred Palace, or by persons appointed by the Most Holy Lord, and approved; and in other places, the approval and examination shall pertain to the Bishop, or another person having knowledge of books and writings to be printed, appointed by the same Bishop, and the Inquisitor for heresy in that city or diocese in which the printing is to be done, and shall be approved by their hand, with their own signature, freely and without delay, under the penalties and censures contained in the same decree (Lateranense, under Leo X, Session X), with this law and condition added, that a true copy of the book to be printed, signed by the author, shall remain with the examiner." The reason for changing this law was this: Often, many authors or publishers of any nation entrust the printing of their books to printers in more famous places, or in places where the printers are more moderate in setting prices, in other places, or even in other nations; and after the printing is completed, all copies are distributed in the place where they reside, or elsewhere, and not in the place where they were printed. Hence, a way was opened for fraud. For in the places where the printing was done, sometimes the law regarding the submission of books to be printed for prior ecclesiastical censorship had fallen into disuse, or did not exist at all. Since the ancient law stipulated that prior censorship should be instituted by the Ordinary of the place where the book was printed, but in the place where the authors printed their books, this law...

[*Latin ed. p. 491*]

COMMENTARY 491. For whatever reason, they believed, or at least could believe, that they were exempt from any ecclesiastical censure, because the local Bishop in the place where the books were being distributed had not granted such permission. Consequently, Leo XIII amended the law to prevent a wider opening for fraud. If authors or publishers intend to distribute a book in the place of printing, they are required to obtain prior censorship and approval from the Ordinary of that place; if in other places, they must turn to the Bishops of those places. Therefore, authors or book publishers must submit their work to the prior

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censorship of the Bishop of the place in which they intend to publish it, and obtain his approval, attaching it either on the front or at the end, as prescribed in § 40. However, it is not the case that authors or publishers are required to request prior censorship and a license from all the Ordinaries in all the places where they intend to distribute the books. If, for example, an author prints a book in Ratisbon, but intends to simultaneously distribute copies in Lutetiae (Paris), Vienna (in Austria), Rome, and Madrid, that author is certainly not required to submit the book to the prior censorship of all these city bishops, as that would be an excessively burdensome obligation; it will be sufficient if he submits it to the bishop in whose diocese he is located, and in which he intends to distribute copies. If, however, he is not going to publish copies in the place where he resides, it will be sufficient if he obtains prior censorship and approval from one of the bishops in whose diocese he will institute the publication. It must, however, be evident that a license has been obtained from a bishop in whose diocese the work is published, so that others may recognize that the printing has been carried out according to the procedures of ecclesiastical law; for each bishop in whose diocese the work is published has the right to subject it to censorship, to prevent its publication, or even to prohibit the book, if they deem it worthy of prohibition. Therefore, authors must not omit the aforementioned censorship and approval. Catholic printers, for their part, will fulfill their duty if they remind authors or publishers of this obligation, if they have neglected it, and if they issue a declaration that they will not submit any work to the press without proper approval. However, the question arises: Can the bishop of the place of printing demand that a book be subjected to his examination before being printed?

[*Latin ed. p. 492*]

492 COMMENTARY: Shall this be printed! Indeed, Bishops seem to possess, by their own proper and natural right, the power of knowing and instituting censorship regarding books which are printed within their Dioceses.

Q. But is this so, when, through this new legislation promulgated by Leo XIII, they have been relieved of that office?

Q. But what if the author, having neglected the examination and approval to be obtained from the Bishop of the place in which he intends to publish the book, submits it for approval to one Bishop of the place in which the book is printed, but not published?

A. Such a book ought not to be considered prohibited, since it is not subject to any prohibition by law; and although it has received approval from an authority which is not suitable, nor competent, yet since the author has demonstrated that he reveres the authority of the Church, it is permissible. However, the Bishop of the place in which the book is published is not bound by the judgment of the Bishop of the place of printing, and he can,

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at his own discretion, withdraw the book and prevent its publication until it has satisfied the laws of the Church.

The same would be said, and indeed ought to be said, if the author, having obtained the approval of the Bishop of the place in which the book is to be published, were to publish it; for since the legislator does not subject such publications to the penalty of prohibition, the Bishop can certainly prevent its publication, and can even prohibit the book, if it appears worthy of prohibition; but it cannot, by its own right, be considered prohibited, since we do not have a law prohibiting it.

As it is clear from the paragraph, the approval of books pertains to Bishops, regarding those books whose censorship is not reserved by the force of the Apostolic See or to the Roman Congregations; but books concerning which we are speaking in the preceding paragraphs of this Chapter are reserved to the Roman Pontiff, or to the Roman Congregations. Therefore, let other Bishops be concerned about these matters.

73. We believe that the Regular clergy should be understood in the strictest sense in this paragraph 36, since we are dealing with a hateful law; consequently, those who are bound by solemn vows, without whom no Order is truly regular and religious, are included. But the Institutes of those who have taken simple vows are subject to the jurisdiction of the Bishop, and since their religious are properly called religious, and are not considered to belong to the secular clergy, the Superior of this Institute is the Bishop. But if those who have taken their vows in these Institutes are bound by a rule or precept not to...

[*Latin ed. p. 493*]

COMMENTARY 493. Those who wish to publish anything without the permission of their Superiors, not from the Prince, but by the command of the rules, are obliged to obtain from their Superiors the appropriate permission for the matter in question. The legislator binds Religious to obtain such permission from their Superiors, according to the decree of the Holy Council of Trent. However, it must be noted that the Fathers of this Council, in that decree of Session IV, concerning the publication and use of sacred books, spoke of books that treat of sacred matters, and not of others: "No one shall be permitted to print, or to have printed, any books concerning sacred matters, without the name of the author, nor shall they be sold, or even kept by themselves, unless they have first been examined and approved by the Ordinary." Therefore, Religious are bound, according to the prescription of the Council of Trent, to request permission from their Superiors for books that treat of sacred matters. "And if they are Religious, they shall also be required to obtain from their Superiors a license for such works, after they have been examined by them, according to the form of their regulations." However, it is known that Clement VIII extended the decree of Trent to books of any subject that are produced by Religious.

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"Religious, besides the license of the Bishop and the Inquisitor (of which Rule X speaks), must remember that, according to the decree of the Holy Council of Trent, they are bound to obtain from their prelate, to whom they are subject, the permission to publish a work. Both concessions, which must be apparent, must be printed at the beginning of the work (a)." Therefore, after such an extension by Clement VIII, Religious are bound to subject every work to the authority of their Bishops and Prelates. It is therefore not the opinion of those who believe that Religious can disregard the permission of their Superiors, if they are to publish books that do not treat of sacred matters, or that they are bound to follow the procedures of the rules they have professed, or of obedience and poverty, which are the virtues of true Religious. For they are bound by the law of the Pontiff now, as they were also bound in the time of Clement VIII. This is evidenced by the fact that all books published by Religious, both before and after the Constitution of Leo XIII, bear the license of both Prelates, either on the title page or at the end. (a) introduction – Concerning the printing of books.

[*Latin ed. p. 494*]

494 COMMENTARY. It must not be thought that our Legislator, Clement VIII, abolished the aforementioned law; for he uses the words of Clement VIII, almost quoting them verbatim; and he joins the faculty of obtaining permission from the respective prelates with the faculty obtained from the Bishop, extending this to all books not reserved to the Supreme Pontiff or the Roman Congregations.

74. According to the ancient law, those who resided in the ecclesiastical state, if they wished to print a book outside its boundaries, were required to submit themselves for a double approval; namely, in Rome, to the Master of the Sacred Palace Apostolic and to the Most Eminent Vicar of the City; and outside, to the faculty of the Bishop in whose diocese the author or editor resided. Furthermore, the Bishop in whose diocese the book was to be printed was required. It is clear that the approval of books, before the Constitution of Leo XIII, pertained to the Ordinary in the place where the book was being printed. Therefore, he had the right and the power to examine the book intended for printing (a).

Our Legislator, perhaps considering it not entirely fitting that the judgment and opinion of the Ministers of the Holy See should be overturned or approved by others, even those of lower rank, derogated from this law, and prescribed, on the contrary, that if any author residing in Rome wished to print a book not in the City, but elsewhere, no other approval would be required besides that of the Cardinal Vicar of the City and the Master of the Sacred Palace Apostolic. He thus removed the law established for those residing outside the City, but within the Pontifical State, and, concerned for the authors residing in Rome who wished to have their books printed elsewhere, he exempted them from any other prior review and approval,

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provided that they presented the approval of the Cardinal Vicar of the City and the Master of the Sacred Palace Apostolic, but cumulatively, not disjunctively.

It is known that in Rome, the Master of the Sacred Palace Apostolic instituted the preliminary censorship and approval of books, and (a) The ancient law, established by the decree of Pope Alexander VII, stated: "It must be observed concerning Rule X, that those residing in the state, whether immediately or mediately subject to the Apostolic See, cannot transmit books composed by them for printing elsewhere, without the express approval, and in writing, of the Most Eminent and Reverend Cardinal, our Most Holy Lord's Vicar, and the Master of the Sacred Palace, if in the City; and if they are outside the City, without the faculty and license of the Ordinary of that place, or of those delegated by him, for the work to be performed."

[*Latin ed. p. 495*]

COMMENTARY 495: to decide; but this [approval] confirms the Most Eminent Vicar of the City, or one acting in his stead, through the very word "imprimatur," which is by no means equivalent to the word or formula seen, but signifies the same authority, if not greater; for no one will concede that the approval of a Cardinal, Vicar of the City, is of lesser authority than the approval of the Master of the Sacred Palace. Furthermore, from the reading of this paragraph, it is understood that those authors residing in Rome are left free, whether they wish to or not, to print their books elsewhere; therefore, whatever may be said about the disposition of the ancient law, the question of domicile or quasi-domicile, in order that they may enjoy the benefit of such a law, is irrelevant; it is sufficient that the author residing in Rome, at any time or for any purpose, wishes to avail himself of the privilege or faculty granted to the Cardinal Vicar of the City and the Master of the Sacred Palace; for this law, renewed by Leo XIII, seems rather to concern the authority of the ministers of the Holy See to grant such a permission for the publication of works, than to concern the authors themselves; for they can use or not use it at their discretion.

75. In this paragraph 38, the Legislator determines the qualities and endowments with which the examination of books by Bishops should be endowed; and he says that these must be such that, guided by piety and doctrine, they will pronounce a just judgment concerning the doctrines contained in the book, and in rendering judgment, they will banish from their minds any human affectation, whether of hatred or friendship; so that, with only the glory of God and the benefit of the faithful before their eyes, they will do what the dictates of truth and justice require. Therefore, Bishops must use the utmost diligence in selecting suitable examiners, and they must choose those who are instructed in piety and doctrine; doctrine, so that they may know the truth, piety, so that they may follow it and promote it, and errors, setting aside any human consideration, they must

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note, pursue, condemn, and use prudent and skillful means to ensure that they are condemned. In this matter, Leo XIII renewed the enactments of his predecessors, namely, Clement VIII, Alexander VII, and Benedict XIV. And the first, in the Instruction *De Impressione Librorum* § V, set forth what our Legislator almost verbatim included in his Constitution: "Let Bishops and Inquisitors, whose duty it will be to grant permission to print books, take care that those who examine them are endowed with piety and doctrine."

[*Latin ed. p. 496*]

496 COMMENTARY: "They should use rosaries, and they must be able to assure themselves of the faith and integrity of those who make them; they will not give grace to anyone, nor will they show hatred, but, having set aside all human affections, they will consider only the glory of God, and the benefit of the faithful." Alexander VII, moreover, took care to prevent certain particular defects in the examiners, which often arise from negligence, good faith, or friendship. "Furthermore," he said, "those who exercise the ordinary or delegated authority concerning the examination of books, should take care not to admit to the examination of such books any individuals who are in any way attached to the authors, especially those who are related to them, or who are connected to them by any other bond, however distant it may be (which would corrupt the true and sincere judgment); above all, they must be wary of those who, as authors, offer themselves to the censors; but they should only use those whom they have ascertained to be approved by their doctrine and morals, free from any suspicion of partiality, and, if possible, unknown to the authors themselves, and who are devoted to the good of the public and the glory of God." Finally, Benedict XIV, in the Constitution *Sollicita* § 13, established that those chosen for the censorship of books should be men of integrity, of proven doctrine, of mature judgment, of incorruptible character, free from all party favor, and who, through a just and impartial acceptance, combine prudence and zeal for truth in their judgment. Since books are published in all fields of knowledge, bishops should keep in mind what this Pope warns in the aforementioned paragraph, namely that they should select individuals from both the secular and regular clergy, some of whom are theologians, others experts in both branches of law, and still others who are outstanding in both sacred and profane learning... so that suitable men are not lacking to render judgment on each one. However, it often happens that a book to be examined is entrusted to a man who, although of proven integrity and doctrine, is not skilled in the field in which the book deals. What then? Surely, he will diligently follow what Benedict XIV suggests in the aforementioned Constitution *Sollicita*, § 16: "If, through error, a matter is entrusted to someone that is foreign to his particular studies, and this is discovered by the censor, or by the consultant chosen from the reading

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of the book, he must know that he will not be excused, either before God or before men, unless he immediately brings this to the attention of the Congregation or the Secretary, and offers his opinion on such a matter."

[*Latin ed. p. 497*]

COMMENTARY 497: "Having professed to be less suited for the task of censorship, [he] should take care to find another who is more suitable for that office, so that he may not be considered a detriment to his reputation before the Pope and the Cardinals, but rather, so that he may gain a great opinion and praise for his integrity and uprightness." However, if Bishops would consider and implement this, they will not fear that men suitable for examining books will be chosen.

76. Leo XIII provides a standard by which the qualifications that book examiners must possess should be guided. For books that are subject to censorship either contain errors that directly or indirectly undermine the faith and the honesty of morals, or they contain opinions and sentiments about which free discussion takes place in Catholic schools, and on which people hold varying judgments; the Legislator decrees that the former should be rejected, and the latter, according to Catholic doctrine, should be condemned. However, the Pope establishes a thoroughly safe rule for recognizing errors that corrupt the dogmas of faith and morals, in the truths that are contained in the decrees of the General Councils, the constitutions of the Roman Pontiffs, and the consensus of the Doctors. Indeed, these truths constitute the objective reality of the faith, and heresies and errors are recognized through these truths. For this reason, the Pope desires that examiners should be free from preconceived opinions and sentiments that stem from prejudices and other purely subjective sources. To achieve this, he reinstates what Benedict XIV warned in the cited Constitution *Sollicita*, § 17: "That they should know that it is necessary for them to judge, with a mind free from all prejudices, about the various opinions and sentiments contained in each book. Therefore, they should set aside the influence of nation, family, school, or institution, separate the study of individual parts, and keep before their eyes only the dogmas of the Holy Church and the common doctrine of Catholics, which is contained in the decrees of the General Councils, the Constitutions of the Roman Pontiffs, and the consensus of orthodox Fathers and Doctors; considering this from now on, they should know that there are not a few opinions that seem certain to one school, institution, or nation, and nevertheless, without any detriment to the faith or the religion, are rejected and opposed by other Catholics, and are defended."

[*Latin ed. p. 498*]

498 COMMENTARY. "The Apostolic See, which leaves each opinion of this kind in its degree of probability." Indeed, there is nothing more just,

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nor more fitting for examiners, than to consider and execute this, when establishing the censorship of books, since they will be judging what is in accordance with truth and justice. Therefore, since examiners must have this alone before their eyes, we believe it is necessary to state: a) They must take care not to introduce erroneous, false, or suspect opinions concerning heresy, much less heretical opinions, the falsity of which is clearly established from no source examined by the Roman Pontiff. b) They must consider only the dogmas of faith and morals, and therefore must avoid meddling with matters that pertain solely to history, criticism, chronology, physics, astronomy, and other natural sciences, which have no connection to the integrity of faith and morals; for these must be judged according to other principles. c) In matters relating to the Divine Scriptures, they must take care not, on account of some testimony from Holy Scripture, which cannot be clearly understood in a literal sense, to dare to condemn any principle of the natural sciences, and to believe that it contradicts revealed doctrine. These things should be diligently kept in mind, because sometimes examiners, either less experienced or driven by imprudent zeal, condemn a book because of a word, a comma, an uncivil expression, an opinion that does not please them, historical facts, especially those relating to persons or ecclesiastical matters, the truth of which they do not have before them, or because of some opinion that seems new to them, about which nothing has been pronounced by the Church or by the Roman Pontiffs; which is an outrage. To ensure that examiners understand how much doctrine and maturity of judgment must be employed, let them also consider the observations made by Natalis Alexander in his *Historia Ecclesiastica*; for although many of them are based on truth, not a few that refer to purely historical facts are false. What shame for censors, when their censures are printed and published with responses from that most learned man, refuting them! Furthermore, in this matter, we are concerned with justice, with truth, and with...

[*Latin ed. p. 499*]

COMMENTARY 499: Concerning the reputation of the authors, and also concerning their profit; these matters, however, are not to be considered in any way trivial. Moreover, what is it that examiners ought to be, after the Constitution of Leo XIII, more humane in? Not, indeed, in such a way that they make concessions in matters of faith and morals; for in these matters, no concessions are permitted; but rather, that in other matters, they should apply leniency rather than severity.

77. In order that the examination may be properly conducted, the examiners must read the entire book, lest they misunderstand something that the authors wrote less clearly on this page, while on another, they presented the same meaning openly and in a Catholic manner. This is what Benedict XIV reminds us in the aforementioned Constitution, *Sollicita*;

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and what the Censors are reminded of, let them read and carry out with attentive minds. Once the examination is completed, the designated Censors shall present their judgment and opinion to the Ordinary. This judgment can be threefold: a) That the work is to be condemned. b) That it is to be corrected. c) That nothing stands in the way of its being printed and published. If 1. the printing or publication is denied by the Bishop after the examination, If 3. the permission to print or publish is granted. If 2. before printing, the work must be corrected by the author according to the corrections that the Censors have decreed are necessary; nor shall the work be published until the Ordinary has approved the prescribed corrections (a). Therefore, let the authors of books understand that it is safer to submit their work to the Bishop for examination before printing, lest they be forced to waste their efforts, or increase their expenses, either because of a prohibition, or because corrections are required. If nothing stands in the way of the publication of the book, the legislator commands that the license to publish it be granted to the author in writing and entirely free of charge; and the license granted shall be printed either at the beginning or at the end of the work.

m ra (a) Since the Episcopal Censors are not bound by the same secrecy as the Consultors of the Sacred Congregation of the Index, we do not consider it useless if we humbly request them, that if at any time they find the author's meaning to be doubtful, or if some statement seems to them not entirely satisfactory, or if they notice anything else that requires clarification, they should advise the author to explain, either verbally or in writing, what is in question.

[*Latin ed. p. 500*]

500 COMMENTARY: 1. What then, if permission is granted verbally, and not in writing? 2. What if some price is demanded by the Bishop, or by the officials of the Episcopal Curia?

Regarding the first question, Bishops ought to ensure that the prescriptions of the Pontiff requiring written permission are observed, either at the end or the beginning of the work being printed. However, if permission has been granted verbally, there is no invalidity arising from this, since the substance of the precept lies in the granting of the permission itself: this permission, whether granted verbally or in writing, constitutes a true permission.

It cannot be absolutely maintained that permission granted by the Ordinary must be printed in the work using the same words. From the reading of the paragraph, it appears that permission to publish the work in writing is to be printed; therefore, whatever words are used, even the most common ones regarding the permission of Superiors, or the faculty, or the imprimatur, are sufficient to express the legislator's will; and it should be noted that Leo XIII appears to have overlooked words that are authentically

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found in the old law. Henceforth, he does not at all prescribe that a written faculty be granted under penalty of nullity, nor that it be printed using the same words.

However, printers are not bound to give credence to the author or publisher asserting that they have obtained appropriate permissions from the Bishop verbally, unless they are clearly trustworthy; but it is necessary that they receive such notification from the Bishop.

Regarding the second question, in the old law, Canon X of the Council of Trent stipulated that the examination, permission, and other matters should be done free of charge. "Indeed, the approval of such books must be given in writing, and it must authentically appear on the front of the book, either written or printed: and the approval and examination, and all other matters, must be done free of charge."

Furthermore, it was prescribed that a copy of the book to be printed, signed by the author's hand, should remain with the examiner. However, our legislator prescribes only that the Bishop must grant permission free of charge; therefore, the law applies to Bishops, not to the censors appointed to examine the book; consequently, they are not included under the law; and since, sometimes, the examination of a work, especially if it consists of more than one volume, is neither a light burden nor requires a short time, it would not be improper for the censor to receive compensation from the author, but this compensation should be determined, not by the author, but by the Bishop.

Indeed, this is contrary to the custom observed by the Sacred Congregation for the Propagation of the Faith; for the consultants appointed to establish the censorship of books...

[*Latin ed. p. 501*]

COMMENTARY 501: Some maintain that absolutely nothing is understood by these words. But if the episcopal censors do not wish to imitate these, they do not sin, nor do they admit anything indecent; for it is written: "For the scripture saith: Thou shalt not muzzle the ox that treadeth out the corn: and, The labourer is worthy of his reward." (a). However, if a Bishop, or officials of the Episcopal Curia, were to demand something in order to grant a license, they would indeed be acting contrary to the law; nevertheless, the license would not be considered invalid, since the Legislator has not declared it to be invalid. Finally, the Pontiff has dispensed the authors from the obligation of leaving a certified copy with the examiner; for which they owe him the highest gratitude, since He has relieved them of a considerable burden and expense.

78. Some believe that in this paragraph, by the words "all the faithful," Pope Leo XIII intended only printers and publishers, and not the authors of books; and this because § 44 speaks only of printers and publishers;

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however, the authors residing in Roma are to be excepted, who, if they wish to have their books printed or published elsewhere, are required to submit them to the prior censorship of the Masters of the Sacred Palace (b). However, such an opinion does not seem to be acceptable. Indeed, I. The extent of any law is to be determined from the obvious and literal meaning of the words, and this meaning must be followed unless context or accompanying statements suggest otherwise. But the words "all the faithful" are understood to mean all those who can demand the execution of the action indicated in the paragraph: and these are certainly not only printers and publishers; therefore, these words cannot be understood to mean only printers and publishers. II. Furthermore, the context itself confirms this. Indeed, a) The Legislator never gives any indication in the entire decree that he intends to apply the law only to printers and publishers.

(a) *Luc. X. 7.*

(b) *These are those who, according to the Fourth Lateran Council (the printer should have printed V, not IV, as the author wrote, who certainly knew that at the time of the Fourth Lateran Council, celebrated under Innocent III in the year 1215, the art of printing had not yet been invented), print or have printed books: namely, printers and publishers, and not the authors, when these do not themselves take care of the edition of their own work. This also applies to the present regulation, since in the following section, in which mention is made of those who are obliged to submit books to such censorship, only printers and publishers are mentioned. As it seems, only the authors residing in Roma are excepted: these, if they give commissions or permissions to others to print their books outside of Roma, must first submit them to the censorship of the Vicar of His Holiness, and of the Master of the Sacred Palaces. The Constitution Officiorum, briefly commented on by M. C. G., Naples 1898, p. 85.*

[*Latin ed. p. 502*]

COMMENTARY: It will suggest that the will [of the legislator] intended to exclude authors from prior censorship, those who were subject to it under the old law. b) It does not offer even a single indication that it intended to subject these individuals to this law. For example, in paragraph 36, it compels Regular authors, not only Bishops, but also their own Superiors, to submit their work for approval; but approval is not granted without prior censorship. In paragraph 37, authors residing in Rome are not permitted to print books elsewhere without first undergoing censorship by the Master of the Sacred Palace, which, due to a special privilege, is sufficient; no other is required. Therefore, unless they reside in Rome, they are compelled to undergo the censorship of others. In paragraph 40, the Pontiff commands Ordinary officials of the places to grant the author permission, after a thorough examination, if nothing appears to obstruct the publication of the book. In paragraph 42, it prohibits clerics of the secular clergy from pub-

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lishing, even books that deal solely with natural arts and sciences, without the consultation of their Ordinaries. Therefore, on what argument can it be proven that the legislator excluded authors from prior censorship, and included only printers and publishers, when in so many other paragraphs it speaks of authors? III. Nor does the argument derived from § 44 demonstrate anything to the contrary; for it does not concern the first printing, but rather the approved editions of the same work; therefore, the legislator must have spoken of certain printers and publishers, both because they might think that a work once approved does not require a new approval, and because, since many authors are deceased, it would certainly not be possible to impose prior censorship on them, nor to grant them approval; only new editions of the work, if they correspond exactly to the original, do not require prior censorship, but a single approval. What! Does the legislator turn to certain printers and publishers in this § 44, while in paragraph 41, which we are explaining, he addresses all the faithful? Do such words refer to such a specific group? Can it be supposed that the legislator spoke in the same sense? Indeed, the difference in the heading and title excludes such a supposition. But finally, the most evident reason excludes it, because if the words include all the faithful, printers and publishers, then all authors would be exempt from prior censorship, contrary to the open and manifest will of the legislator.

[*Latin ed. p. 503*]

COMMENTARY 505. Indeed, they advance the argument because of the word "books," claiming that it refers to books that are already printed, and not manuscripts; but the word "books" also clearly refers to manuscripts, as demonstrated by the esteemed Arndt in his work, page 118 and following. Furthermore, it is clear from ancient law: and this has been certainly established in the preceding paragraph, where it is stated that, in general, all writings are included under this term, encompassing both printed works and written books, and especially these. Therefore, all the faithful are obligated to subject to prior censorship, at least, those books that pertain to the Divine Scriptures. Who these are was declared by the Supreme Sacred Congregation on Feria I, December 22, 1880, when it stated that such censorship applies to books of the Holy Scriptures, as well as to their annotations and commentaries, but it is by no means extended to any books whatsoever that deal with sacred matters in general, that is, those pertaining to religion (a). Under the name of Sacred Theology, we understand dogmatic, moral, ascetic, and mystical theology. Church History is a reliable account of the principal events that have occurred in the Church of Christ, which, of course, includes the origin, progress, and most memorable changes of the Religion and the Church of Christ. When we are dealing with odious matters, the words must be understood in their strict sense; we do not believe that, under the name of Church History, we should include here the lives

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of the Saints, or biographies, which are separated from other events of the Church, nor monographs, that is, narratives of a single event; nor accounts of supernatural events that occur in this sanctuary or that, in the Catholic Church; for, taken individually, they do not conform to the definition of Church History; although, when joined with other principal events, they may pertain to Church History, by reason of their connection with those events, from which the definition of Church History is constituted. Indeed, the Acts of the Saints published by the Bollandists do not constitute Church History, nor could they be called by that name. Canon Law: that is, the collection of canons or laws pertaining to faith, morals, and discipline, which have been prescribed or proposed by ecclesiastical authority to Christians. And it is either common or special, written or unwritten. [a) Acta S. Sedis XV, 556.

[*Latin ed. p. 504*]

504 COMMENTARY. Natural Theology, which is the science concerning God, understood through natural light. When the legislator speaks of Natural Theology, the other parts of speculative philosophy, or special metaphysics, do not seem to be subject to a specific law; nor should anyone think that this was done inadvertently, for the principal questions of Psychology and Cosmology, which are also defined by revealed doctrine, pertain to Dogmatic Theology. Ethics, or the science of the supreme laws, by which the free action of man is directed to adhere to the good, is also included: namely, the institution of man for living rightly. The other things which the legislator commands to be subjected to ecclesiastical censure are of this kind: religious or moral disciplines. In this place, "discipline" is the same as "institution"; therefore, the words of the legislator indicate ordered treatises concerning matters either pertaining to religion or to morals; hence, no articles can be understood as separate, in which something is discussed about this or that precept of religion or morals, unless they are so many that, when collected together and compiled into a book, they can be considered as institutions, and as books for transmitting some discipline. Therefore, articles in periodicals, being separate, cannot come under the name of such disciplines, and are not included under such words. But they are to be included under the following words: And generally, all writings in which the subject of religion and moral honesty is especially present. It seems to be affirmed that: 1. Because writings are more open than books; therefore, they can encompass any and all investigations on a subject. 2. Because Leo XIII, in the present paragraph, renewed the law promulgated by Pope Pius IX on June 2, 1848, for the Pontifical Territories, which stated: "Ecclesiastical Censors in places subject to the temporal authority should be concerned only with those things which concern the Divine Scriptures, Sacred Theology, Ecclesiastical History, Canon Law, Moral Theology, Ethics, and other disciplines of this kind, both religious and moral, and generally with all

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those in which the subject of religion or moral honesty is especially present. Therefore, according to these principles, we decree and permit that only those of every kind of periodical and book which have moral or religious arguments, as we have said, may be published without prior ecclesiastical censure; in others, however, they..."

[*Latin ed. p. 505*]

1 COMMENTARY, I, II, 505: "Nam, illi articuli, qui simile argumentum habent, vel ipsam causam religionis aut morum honestatis proxime attingant" (a). Cum ergo Leo XIII decretum Pii Papae IX ad verbum induxerit, nulla indicta exceptione, imo iisdem repetitum verbis eo in loco ubi de ephemeridibus et articulis sermo habetur, rationabiliter inferimus eos etiam in Leonis lege comprehendi. Ephemerides igitur aut articuli moralis vel religiosi argumenti, ut Pii IX verbis utamur, aut qui causam religionis aut morum honestatis proxime attingunt, praeviae censurae sunt supponendi ut legitime publicari possint. Neque severitatis legislator est arguendas. Etenim praeterquamquod fidei morumque praecepta quomodocumque publicentur Ecclesiae iudicio essentialiter subsint, aliquando hi religiosi articuli ab iis scribuntur qui non sunt in ecclesiasticis disciplinis admodum versati, quique consequenter non ea claritate aut verborum proprietate catholicam doctrinam exponunt, qua exponenda est; aliquando vero proprias ideas atque conceptus veluti catholicae Ecclesiae doctrinam obtrudunt, multosque decipiunt, qua de causa necessario praeviae sunt supponendi censurae. Attamen minime sub Legislatoris verbis illae comprehendi confictae narrationes videntur, quae vulgo Romanzi vocantur, quia si et hos comprehendamus libros, nescimus quinam alii, dummodo boni, sint excludendi. Ex lectione demum paragraphi quisque intelligit hos articulos, ut sub lata lege concludantur, de religione et morum honestate speciali ratione agere debere, specialiter; non obiter aut perfunctorie. Non inutile postremo loco quaerere ducimus: an auctores librorum qui a praevia censura eximuntur, etiam a petenda illorum publicandorum facultate eximantur, ita ut inconsultis prorsus legitimis superioribus publicari possint; aliud est enim praevia censura, aliud facultas opus publicandi; et ab illa quidem legislatorem hos libros eximere manifestum est; at nihil innuere videtur, quo intelligamus horum auctores librorum etiam ab obligatione petendae facultatis dispensare, qua illos legitime publicare possint. (a) Ap. Pennacchi Comment, in Const. Apostolicae Sedis Tom. II, 228.

1. COMMENTARY, I, II, 505: "For, those articles which have a similar argument, or which closely touch upon the very cause of religion or the honesty of morals" (a). Since, therefore, Leo XIII has followed the decree of Pope Pius IX word for word, without any exception, and has even repeated the same words in the very place where the matter of periodicals and articles is discussed, we reasonably infer that they are also included in

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Leo's law. Therefore, periodicals or articles of a moral or religious nature, as we use the words of Pius IX, or which closely touch upon the cause of religion or the honesty of morals, must be subjected to prior censorship in order that they may be legitimately published. It is not the mark of a severe legislator to demand this. For, besides the fact that the precepts of faith and morals are essentially subject to the judgment of the Church, no matter how they are published, sometimes these religious articles are written by those who are not very versed in ecclesiastical disciplines, and who consequently do not explain the Catholic doctrine with the clarity and precision of language with which it ought to be explained; sometimes, indeed, they present their own ideas and concepts as if they were the doctrine of the Catholic Church, deceiving many, for which reason they must necessarily be subjected to prior censorship. However, it does not seem that those fabricated narratives, which are commonly called romances, are included under the words of the Legislator, because if we include these books, we do not know which others, even if good, should be excluded. Finally, from the reading of the paragraph, everyone understands that these articles, as they are concluded under the given law, must treat of religion and the honesty of morals in a special manner; not incidentally or superficially. Finally, it seems not without utility to inquire in this place: whether the authors of books who are exempt from prior censorship are also exempt from the need to obtain permission to publish them, so that they may be published without consulting superiors, who are legitimately in authority; for it is one thing to have prior censorship, and another to have the faculty to publish a work; and it is clear that the legislator exempts these books from the former; but nothing seems to indicate that these authors of books are also dispensed from the obligation of obtaining permission, by which they may legitimately publish them. (a) Ap. Pennacchi Comment, in Const. Apostolicae Sedis Tom. II, 228.

[*Latin ed. p. 506*]

506 COMMENTARY. To this question, it must be answered that the authors of such books are exempt by the Legislator both from prior censorship and from the obligation of seeking permission to publish; firstly, because the power to grant permission to publish is the effect of prior censorship; but when the cause is removed, the effect is also removed; and this is indeed so true that, after a thorough examination, if nothing prevents the publication of the book, the Ordinary must grant the author permission to publish the work. 2. In the following paragraph, ecclesiastical men should not, without consulting the Ordinary, publish books that treat of purely natural sciences; therefore, others who are not ecclesiastical men can; consequently, secular men are not required to seek permission to publish such books. 79. Since, in the old law, all men, whether of the secular clergy or otherwise, were required to subject books of whatever subject matter to

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prior censorship and approval, the Legislator does no injustice to them if he now encourages them to perform the same action more leniently. The reason for this is taken from the virtue of obedience, which is most pleasing to God and men, from the filial submission with which we are bound to our Superiors, and also from the dictates of prudence; for secular men will certainly not be able to complain of the will of the Legislator, which restrains their freedom to publish, without prior censorship, works that pertain to religion and morals, when they see that the secular clergy are forbidden, without consulting the Ordinary, even to publish books that treat of purely natural sciences, or that they ought to do so. Nor should we complain that this burden has been imposed upon us, the men of the secular clergy, and not upon those who are not under religious rules; for they are bound to perform this action by the obedience which they have professed towards their Superiors, and also by their vow of poverty; and it might seem strange if a prescription that does not infringe upon the authority of the Bishop were to be sought from two Superiors; the ancient saying is: "Let nothing be done to excess." Therefore, that the men of the secular clergy may give an example of obedience to their Ordinaries, they cannot, under any circumstances, publish any work, even if it treats of the arts and purely natural sciences, without consulting them. But these words do not impose upon them the burden of subjecting such books to ecclesiastical censorship.

[*Latin ed. p. 507*]

COMMENTARY 507, but only the obligation to inform the Bishop about the publication of the work. 1. This is evident from the difference in language used by the Legislator; for in the preceding paragraph 41, it is commanded: "All the faithful are bound to subject their books, etc., to prior ecclesiastical censorship"; here, it is desired that they not publish them without consulting the Bishops, not because of a legal requirement, but due to moral virtue. 2. When dealing with an odious law, words must be interpreted strictly, and that which is the least that must be held. Furthermore, to leave someone unconsulted is the same as not warning them; therefore, the Bishop should be consulted, and is, if the ecclesiastical author warns him and asks him to allow the publication of the work on matters purely natural, without requiring anything further. 3. It is evident from the added reason: so that they may give an example of obedience to their Ordinaries; but for this, it is sufficient if they inform the Bishop about the work to be published, especially since secular individuals are not bound to do so. However, ecclesiastical authors should diligently remember that they are obligated by the command of the Legislator to inform the Bishop about the publication of the work, and should not consider it to be a matter that can be transgressed without consequence or sin; for the words indicate a command: "Secular clergy are not to publish even books that treat of

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the arts and purely natural sciences without consulting their Ordinaries." What then? Does this not imply that the Bishop may deny the permission to publish the work? Or that the ecclesiastical author may not publish such a work unless he has obtained permission to do so from the Bishop? R. Neither of these seems to follow from the words of the law. For the Bishop is only entitled to what is granted to him by the Legislator; and the author must only take care to avoid what is prohibited by the Legislator. But the Legislator grants the Bishop the right to be consulted about the publication of the work, so that an example of obedience may be given, which the author has provided. Therefore, having provided this, the Bishop cannot deny permission to publish the work, unless there is some other special reason, which we are not to inquire into. Furthermore, it is not forbidden to the ecclesiastical author to publish the work after he has consulted the Bishop about it, and has given an example of obedience. He has, in other words, done what is required by the law; therefore, no penalty can be imposed; but a penalty...

[*Latin ed. p. 508*]

508. A commentary would be of no small importance regarding the prohibition of the publication of a work. Indeed, we maintain this according to the prescriptions of the law. However, ecclesiastical men will choose the best course of action if they obey the Bishop who prohibits. But what if an ecclesiastical author publishes a work without consulting the Ordinary at all? R. If no prohibition of the publication of such a work has been issued for this reason, nor is there any indication from the will of the Legislator that it remains prohibited, then, as we have discussed above, especially in paragraph 17, books are not to be considered prohibited (unless something else prevents it, and there is no indication of the contrary will of the Legislator), even if they are published without the permission of the competent authority; such a published work cannot be considered prohibited. However, the Bishop can summon the author who has acted in an improper and disobedient manner, question him about the reason for disregarding the precept, and even punish him with ecclesiastical penalties according to § 49. Indeed, if there is suspicion that the published work contains things pertaining to faith and morals, the Bishop can temporarily prevent the publication, subject it to ecclesiastical censure, and, after examination, decide what is prescribed by the laws; but he cannot prohibit the book because of a single omission of the mind, since there is no internal or external reason for doing so. What then, if he prohibits it? R. Since the authority of the Bishop exists, and it does not concern subordinates to inquire whether the reason and cause for the Bishop's prohibiting the book is legitimate, subordinates are obligated to observe the prohibition. However, the author has the right to appeal to the Roman See. But in this same paragraph, secular clergy are prohibited, without the prior permission of the Ordinaries, from under-

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taking the management of daily newspapers or periodicals. And first, it must be observed that daily newspapers and periodicals differ in the time of publication, since the former are published daily, while the latter are published on established days, once, twice a week, etc.; as for quantity, we do not believe they differ; for a "folium" is commonly understood to be a sheet of four pages; newspapers, which are equivalent to or are simply daily publications, do not contain more. However, they do contain; they certainly never reach the quantity of pages that constitute a book, as determined by Doctors.

[*Latin ed. p. 509*]

COMMENTARY 509: And we observe this, lest anyone should bring difficulty upon us because of the fact that the "Diaria" themselves do not indicate any specific quantity of pages, but only a daily publication. The legislator in Title 1, Chapter 8, instituted a discussion concerning "Diaria," "folia," and "libelli periodici," but in this place, he omits "libelli periodici." Therefore, what is to be done? Can, or should, the interpreter add these to this paragraph, or pass them over in silence? Indeed, the Reverend Vermeerch, in his aforementioned Dissertation, page 50, note 26, writes: "By 'folia periodica,' we understand those similar to newspapers, differing only in the 'frequency of their editions.' Therefore, we do not include those which are called 'Revues,' since their fascicles are considered books or pamphlets." Such a judgment seemed too broad to the Reverend Péries, who therefore, in his aforementioned work, pages 209 and 210, believes that even "libelli periodici," "Revues," should be included under such a heading, and he says that this can be solidly proven by a distinction made by the legislator between "diaria" and "folia periodica"; therefore, he concludes that no ecclesiastic can constitute himself as the director of such publications without the permission of the Bishop (a). However, unless we are mistaken, the opinion of Father Vermeerch seems to be correct, and should be maintained. And 1. It does not seem to hold any weight, the argument derived from the voluntary distinction made by the legislator between "diaria" and "folia periodica," as if these also include "libelli periodici," that is, the "Revues"; for this is not to be affirmed, but must be proven; for if it has been established that the legislator made a distinction between "diaria" and "folia periodica," it has not been established that he also included "libelli periodici" under the term "folia periodica"; therefore, the Reverend Péries assumes something that is in question. 2. But it is also clear that the legislator excluded "libelli periodici," "Revues," from the category of "folia periodica." Indeed, in Title 1, Chapter 8, he speaks of "Diaria, folia, and libelli periodici"; but in paragraph 22, he clearly distinguishes these, when he commands: "No one among the Catholics shall, in such 'Diaria,' or 'folia,' or 'libelli periodici,' publish anything, unless prompted by a just and reasonable public cause." The Reverend Vermeersch seems

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too broad in excluding the "Revues" from the number of periodicals; the distinction voluntarily indicated in the text between "diaria" and "folia periodica" seems to us not to allow us to adopt his opinion. Therefore, we believe that, even when it comes to the direction of a "revue," ecclesiastics must obtain the authorization of the Bishop.

[*Latin ed. p. 510*]

COMMENTARY: But if periodicals are the same as periodical pamphlets, why insert this text, when they are already included in the periodicals? Furthermore, the legislator, either by a word or openly, expresses the distinction between the enumerated writings, so that one is not the same as the other. 3. The law allows for as much extension as the words permit: especially when we are dealing with odious things, in which not even a shadow of a departure from the natural meaning of the words is permitted, and in which it is most solemnly declared: "The legislator has expressed what he wanted, and what he has not expressed, he is to be considered to have not wanted." Therefore, since in the paragraph that we are explaining, the legislator does not at all enumerate or express periodical pamphlets, he is to be considered to have not intended to include them in any way. 4. It is manifest that periodical pamphlets are clearly different from newspapers and periodicals, since the latter comprise one, while the former comprise many sheets, and, for the most part, deal with the same subjects; indeed, newspapers and periodicals usually report on political and other news that are happening throughout the world; whereas periodical pamphlets (especially those of which we are speaking in this paragraph, which certainly are not to be considered harmful, as those mentioned in chap. VIII) deal with sciences, and other matters of the highest importance, and only in the end touch upon some political matters, and those usually in a more certain manner. Therefore, periodical pamphlets, by their very nature, differ from periodicals, so that they cannot be converted into one another. Therefore, the legislator, who in the present paragraph does not enumerate periodical pamphlets, having perfectly understood their nature, excludes them by that very fact. Therefore, ecclesiastical men, while they are prohibited by law from undertaking the direction of newspapers and periodicals without the permission of the Bishop, are not prohibited by law from undertaking the direction of periodical pamphlets (Revues). After these things, it must be inquired what the legislator meant by "newspapers and periodicals"? Did he mean only those that report on political and other news completely distinct from religion, even though some may also deal with matters relating to religion and the Church? Or does he also mean those that deal with matters pertaining to one religion, the Church, and honest morals? And if the latter, are ecclesiastical men required to ask for permission from the Bishops for their direction? To the first question, we answer that the legislator spoke of newspapers and periodicals that report

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on political news, and not on religious matters.

[*Latin ed. p. 511*]

COMMENTARY 511. We infer this from 1. the words of the law; for, by common understanding, such publications are indicated by these kinds of terms; and the legislators use common and accepted terms. 2. From the fact that the preceding Chapter VIII speaks of these same newspapers and pamphlets, although pernicious, no reason appears why we should believe that in the present paragraph the legislator is speaking of other publications of a different kind and name; which he ought to have indicated, so that those subject to the law might understand. 3. The legislator omits periodical books, which usually treat of sciences; therefore, he includes under this prohibition those which deal with political matters and profane affairs. 4. He prohibits ecclesiastical persons from taking charge of them; but it is not to be thought that the legislator intended to drive Churchmen away from the direction of newspapers, by which religion is solely defended, and which are, as it were, matters pertaining to the Church; moreover, it is difficult to find ecclesiastical superiors more suitable for this task. 5. Finally, it is doubtful whether the legislator included purely religious newspapers and pamphlets under this law; but when there is doubt about the existence of a law, or about its extent, no one is bound by the law, since a doubtful law does not obligate. Therefore, we believe that the legislator did not intend to include purely religious and ecclesiastical newspapers and pamphlets under such a prohibition. From this reasoning, it is clear what must be said in response to the second question. For, since religious newspapers and pamphlets are not included under the law, no permission from the Bishop is required for ecclesiastical persons to manage them; nevertheless, they are bound by the prescriptions in the preceding paragraph to subject their writings to the prior censorship of the Ordinaries. Since the legislator includes only managers under the law, we believe that ecclesiastical persons who write articles in such newspapers and pamphlets, and who in some way collaborate in their production, are not included under it; for a penal law cannot be extended from case to case, nor because of the equality of reason. However, we believe that those ecclesiastical persons who, in order to appear to obey the law, consult their consciences and assume the role of managers, are the true managers. These men remember the legal maxim: "He who acts through another is considered to act through himself," and therefore are the true managers.

[*Latin ed. p. 512*]

512 COMMENTARY concerning those who transgress the law. By acting in this manner, one may indeed deceive the Roman Pontiff, a Bishop, and others; but one will not deceive God, before whose tribunal they themselves will stand; moreover, such actions disgrace anyone, and instruct in

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contempt for the law; but above all, they disgrace men of the Church. Therefore, secular clergy, and not regular clergy who are excepted by the law, since the legislator does not name them, are prohibited from undertaking the direction of any journals or publications without the permission of the Bishop; for this is what the word "moderanda" signifies. And it is clear to everyone that such a decree is most wise and prudent. For it is evident that the directors of such publications are often completely distracted from the duties and ministries to which they are bound by sacred ordination; some, forgetting their vocation, rush into secular affairs, and it frequently happens that they inquire into, hear about, discuss, and write things that are entirely unbecoming of a minister of the Church; they often stir up quarrels, hatreds, enmities, and discord; they provoke hatred in many towards the clergy, undermine due obedience and reverence towards Bishops, and even publicly ridicule their persons, making it impossible for them to be applied to ecclesiastical ministries; if they are applied, their duties are performed most negligently, as they are overwhelmed by secular thoughts and affairs; they are greedy for money; they are led by pride, precisely because they are directors of journals and publications, to which they often appeal to everyone, and for this reason they are often brought before secular or even ecclesiastical tribunals; if they have enemies, they seek out quarrels and disputes; if they have flatterers, however wicked, they elevate them to the stars; let us not pursue further examples. For this reason, the ordinaries of ecclesiastical places who request to direct such journals and publications should have clearly demonstrated the gifts and the spirit by which they are truly led, and not by which they claim to be led, in order to obtain permission. Once this permission is granted, it should only be given to those who are of the most honest character, advanced in age, endowed with prudence, conspicuous for piety, cultivated in knowledge and doctrine, and free from vices, for a very serious reason. They should remember that the Roman Pontiff has therefore compelled ecclesiastical men of this kind to request permission from the Bishops, because the qualities of those who are requesting are more clearly evident, and because experience has taught that not all directors of this kind can be commended for their conduct and writing. Therefore, let us...

[*Latin ed. p. 513*]

COMMENTARY 513: They should employ prudence, so that they may respond to the desires and wishes of the supreme pastor of the entire Church. A few points are necessary. We have said that Bishops ought to grant such permission only for very serious reasons. The reasons for granting such permission may be, if there is no Catholic journal in that region, and if no secular man is suitable; if journals published by secular men do not correspond at all to truth, piety, the desires, and the benefit of Catholics; if an ecclesiastical man is sought for the direction

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of such a publication, and he is such that, by his reputation, integrity, knowledge, and other qualities, he surpasses the others, and can fulfill the office, whether by refuting the arguments of those who speak unjustly or inappropriately, or by establishing suitable and sound arguments, which may silence the mouths of those who speak unjustly or inappropriately. Although permission granted even verbally by the Bishop is a true permission, we consider it more fitting that it should be given in writing, and that conditions should be added which the Bishop deems necessary, and that the editor should be strictly bound to observe them; thus, the authority of the Bishop, the security of the editor, and the benefit of the faithful will be promoted. Furthermore, let Bishops take note that this law also applies to those ecclesiastics who were moderating journals and periodicals before it was promulgated; for the law is general and absolute, and the Legislator indicates no distinction. Those, therefore, who were moderating before the law, are subject to it now; and perhaps for this very reason, because some of the former editors have been the cause why the Roman Pontiff has restricted the freedom of all, because of the inappropriate things they have written. But who would say that ecclesiastics who are moderators of such publications have produced, and can produce, many good things, and that the Roman Pontiffs themselves have sometimes praised them with commendations? We do not wish to assert this. But we ask those who have produced evil things in the press, and who can cause harm to themselves and to others, to consider the following: 1. The office of priests is to offer sacrifice, to bless, to preside, to preach, and to baptize, but not to moderate journals and periodicals; 2. Let them consider that Pope Leo XIII would not have enacted this law, if all ecclesiastics who were moderators of such publications had produced, or were expected to produce, good things; 3. Let them remember that true good is that which is suited to our vocation; for the Apostle says in Acts, chapter 30, verse 33.

[*Latin ed. p. 514*]

514 COMMENTARY II: You must conduct yourselves worthily of the vocation in which you have been called (a). But who will seriously believe that certain individuals are called by God to manage daily newspapers and periodicals, of which we are speaking, when, above all, there is no necessity for such a thing? It is certainly fitting that those things which the Fathers of the Council of Lyons, celebrated in the year 1850, decreed in this matter should be printed in golden letters, Title XXVIII, Concerning Books to be Approved, paragraph 4: "Moreover, concerned that those who strive for God may become entangled in daily conflicts of opinion, to the great detriment of priestly honor, we prohibit that clerics, without prior permission from the Bishop, undertake to publish or direct a newspaper or periodical. We also urge that in the aforementioned publications, no effort

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be made, without consulting the Bishop." Collection Lacensis, Volume IV, page 487. If, at times, the Roman Pontiffs bestow praise upon them, it is certainly because they are acting in accordance with the evangelical and ecclesiastical doctrine and precepts, so as to encourage them to continue the fight against impiety, and to commend their intentions, which are certainly good. These things clearly correspond to the present decree, by which Leo XIII requires the managers of newspapers to obtain permission from the Bishop.

79. The author, as is evident, is he from whom the book derives its origin; the editor is he whose care and expense the book is printed and disseminated; but if the author also performs this task, he acquires both names. Therefore, a book that is to be printed, provided it is subject to ecclesiastical censorship, must, at the beginning, bear the name and surname of both the author and the editor. By ancient law, by the decree of Clement VIII, it was sufficient to bear the name of one author, or of those who were considered to be editors, or of those who were authors who, for the most certainly, bore the expenses of the edition and managed its dissemination: but laws are made for those things that frequently occur. "No book shall be printed without bearing on the front the name, surname, and country of the author. If the author is unknown, or for a just reason, his name is withheld, and the book can be published, with the knowledge of the Bishop and the Inquisitor, the name of he who has examined and approved the book must be entirely stated. In these kinds of books, which are from various writers..." "I therefore, a prisoner in the Lord, beseech you that you walk worthy of the vocation in which you are called:" Ephes. IV. i.

[*Latin ed. p. 515*]

COMMENTARY 515: "Those who collect and compile [writings], whether from scattered texts, or from examples, or from various sources, are considered, according to the author, to be [acting] as authors" (a). Our legislator, however, has also subjected editors to the same law, and not without reason, since the same principle applies both to authors and to editors. Indeed, the Popes have ordered that the names of authors be printed on the front of books, so that if they have dared to write anything contrary to the dogmas of faith and morals, they may be recognized, warned, compelled to retract, and, according to the prescriptions of the Holy Canons, even punished. This is known not only from fact, but also from established discipline. It is known that the Holy Office has summoned the authors of books containing harmful teachings and compelled them to issue retractions. To confirm this, we have transcribed a document from a completely authentic source:

"June 19, 1599, at the eleventh hour.

A decree was issued to impose a retraction.

The consultants were heard, and they also presented their opinions in

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writing; all were excluded, and the Cardinals, some for and some against, debated extensively, and after mature deliberation, they reached this decision, if it pleases the Most Holy [Father], which was communicated to them by Cardinal Baronius.

Since, from multiple points, the doctrine of P. is proven to be false, and the author is openly convicted of disobedience and transgression, and for repeatedly publishing the same [work] against an expressly made prohibition, it was decreed that he should publicly retract before the Cardinals and Consultants, and that in a new edition of the book, he should condemn the retracted doctrine, and that he should not publish anything further without special permission from the Apostolic See; in the meantime, all copies of the book are to be diligently sought out, and Bishops and Inquisitors are to be ordered to suppress these books, if it so pleases the Most Holy [Father], or if otherwise decided."

And indeed, we read that the same author, P., issued a retraction on July 3rd.

"P. was admitted before the Cardinals and Consultants, and, kneeling with a missal open on the bench, he spoke aloud..." (a)

(a) Concerning the printing of books.

[*Latin ed. p. 516*]

516 COMMENTARY: "He declared his retraction in a comprehensible voice, and after having touched the Gospels, and kissed the image of the Crucifix, he delivered his retraction in writing, which he signed with his own hand, and which certain Consultors also signed as a witness." Indeed, we know that the Most Eminent Cardinals of the Congregation of the Index were granted the power not only over harmful books, but also over those persons who, for the cause of heresy, had contributed to their printing or dissemination, or in some other way. To confirm this, we present another document from the same source:

"1600. On the 29th of January.

"A meeting was held at the Most Illustrious Cardinal Veronese, where all were present, except Terranova and Avila, and the Master was absent.

"Veronese, Asculan, Colum, Borrom. (Frederick) Baronio, Bellarmino, Cardinal. Cardinal Baronio reported that, by a living voice, he had heard the Most Holy Lord Pope Clement VIII declare that the Most Illustrious and Most Reverend Cardinals deputed for the time being, concerning the Congregation of the Index, have ample and full power and authority, not only over printed and to-be-printed books, to suspend, prohibit, and correct them, to permit and license them; but also over the authors of books, and those who print them, and those who read them, or any persons in any way and manner concerning Index matters, provided that they do not in any way interfere in cases of heresy; which, if it should happen, they must

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immediately transmit the persons to the Office of the Holy Roman and Universal Inquisition, which is to judge in matters of heresy." Furthermore, editors are subject to the same admonitions, penalties, and punishments as the authors, if they are involved in the same errors, or if they may be involved; unless, of course, they were not trying to publish and disseminate wicked books. But, besides the name and surname of the author and editor, the Legislator commands that in the beginning of the book, the place and year of printing and publication must also be indicated (a); and this is done appropriately.

(a) Clement VIII had also prescribed this in "De impressione librorum" § III.

"Those (Bishops and Inquisitors) will diligently see to it that, in the printing of each book, the name of the printer, the place of printing, and the year in which the book was printed, are noted at the beginning and at the end of it."

[*Latin ed. p. 517*]

COMMENTARY 517 It often happens in our age that some publishers, in order to economize, produce only one printing of a book, even though it consists of many thousands of copies, which are then distributed as if they were different editions, although in reality they are all the same. It can also happen that one of these editions, having been purchased, is reported to the Holy Congregation of the Index, and that edition alone is prohibited until it is corrected. Therefore, those who know that only the second edition, for example, has been prohibited, may believe that the other editions are not prohibited; and thus they are led into error, and read harmful books. It is also common in our time for printers and publishers to omit the year of printing, perhaps for the same reason, namely, to make it appear that several editions have been produced from a single printing; and thus a printed work, even though consisting of multiple editions, may acquire a reputation that it might not otherwise deserve. This deception, however, is eliminated by the provisions of the present law. However, a just reason may exist for omitting the author's name; this may be due to reasons of modesty, the small size of the book, fear of serious damage, or because the author cannot, for some reason, write and publish under his own name. If such and other just reasons exist, it is left to the judgment of the Ordinary to grant this permission. This permission, however, must not be granted by the Ordinary of the place where the book is printed, but by the Ordinary of the place where the book is published, according to the provisions of § 35; for since the entire process of approving books for printing is delegated to the Bishops of the places where they are published, it also pertains to them to consider the reasons for which the author's name should be omitted. This is also implied in the present paragraph; it deals with books subject to ecclesiastical censorship, in the publication of which it is sometimes

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advisable to omit the author's name; but ecclesiastical censorship pertains to the Bishop of the place where the books are published; therefore, it also pertains to him to grant the author the permission to omit his own name. Surely, one cannot believe that the legislator, in this matter, was speaking of the Bishop of the place where the book is printed, when there is no trace of this in the text, nor any suggestion of it? Nor can anyone claim that the preceding provisions have been overridden, unless they present clear evidence of an override, or a very probable indication of it; which, of course, is not the case. Furthermore, it is not reasonable to assume that the legislator intended to grant the author a dispensation without cause; for if this were the case, the Epi-

[*Latin ed. p. 518*]

518 COMMENTARY: The author may allege the reasons for which he intends to conceal his name, but he will be able to reveal these same reasons to the Bishop of the place where the book is published, especially since this pertains to the Bishop's knowledge; for only for just causes can the Bishop dispense with the law. However, if a reasonable reason prevents the Bishop of the place where the book is to be published from revealing the reasons by which he is compelled to act anonymously, he shall inform the Bishop of the place where the book is printed. This latter Bishop, in turn, shall request another Bishop to grant the requested permission. If the latter consents, that is sufficient. Bishops must have faith in each other. As it is clear from the reading of the paragraph, the Legislator, under the law he has established, subjects only books to ecclesiastical censure; for he speaks of these: "Therefore, other books which do not treat of matters pertaining to religion or the decency of morals, may be printed and published without the name and surname of the authors, without the place and year of printing and publication: for the Legislator has expressed what he intended." Finally, the question raised by the aforementioned author, M. C. G., must be resolved: namely, whether periodicals, ephemerides, and pamphlets subject to ecclesiastical censure are included under such a law? To this question, the aforementioned author gives an affirmative answer (a). We shall grant permission if, for the sake of truth, we should argue a contrary opinion. And at present, we exclude from this question those periodicals which consist of as many pages as are required to constitute a book; for we concede that these are clearly to be included under the law. But we do not include newspapers, periodicals, and other pamphlets which do not reach the proper quantity of a book, because it is clear that the legislator speaks of books: "No book is exempt from ecclesiastical censure"; and by the word "books" are understood books properly so called, and not at all newspapers and periodicals. And since we are dealing with matters of importance, we are forbidden to extend the law from case to case, even for the sake of the identity of reason. (a) "What is prescribed here for books,

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does it also apply to newspapers and periodicals subject to censure? And why not? Even articles dealing with religious and moral matters must be signed by their respective authors, unless, for just reasons, permission has not been obtained from the Ordinary." *Constitution Officiorum*, briefly commented upon, page 89.

[*Latin ed. p. 519*]

COMMENTARY 519 But these daily publications and periodicals, indeed even the articles themselves which treat of religion and moral virtue, are subject to ecclesiastical censorship. We grant this; but what follows from it? This is a completely different law which should not be confused with the present one, both because of its own nature and because we are in odious circumstances. 80. It has been determined who are the printers and publishers; nevertheless, printers and authors are also considered publishers, if they print and publish a book at their own expense. These two, therefore, must know: 1.° That new editions of the same work require a new approval; 2.° And furthermore, that this approval does not extend to translations of the original text into another language. The reason for the first stipulation is that new editions are usually revised, augmented, and enriched with notes, and sometimes are altered so much that they appear to be almost new books; therefore, they necessarily require a new approval, since whatever has been added or changed has not been subjected to ecclesiastical censorship and has not been approved; nor can they be considered as separate from the book with which they are joined, but rather as forming one and the same thing. However, although new editions faithfully express the old, the Legislator rightly requires a new approval, both to avoid any possible fraud, and to signify that these new editions completely correspond to the old. We believe it to be obvious and clear that in this paragraph, the discussion concerns only those new editions of books which the Pope has reserved for ecclesiastical censorship, and not those which treat of purely natural sciences and arts, since these books are dispensed from prior censorship and approval, according to the established § 41, with the exception of those which have come from secular clerics. For this reason, the Legislator has derogated from the present law the ancient law, in which all new editions of books were to be approved by ecclesiastical authority. Hence, after the Constitution of Leo XIII, all new editions of books and works which treat of purely natural sciences or arts, and which consequently are not subject to ecclesiastical censorship, require no approval, even though they may have been printed and published without ecclesiastical approval. We also believe that the same must be affirmed of those books which do not treat of religion or moral virtue, and which, besides...

[*Latin ed. p. 520*]

520. Commentaries of competent authority have the power to be pub-

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lished, but are not prohibited; for since such books do not now undergo ecclesiastical censure and approval, they can be reprinted without any approval. The same, and indeed a better, reason applies to why translations of books into other languages must require the same approval that was given to the original text. For translations are new works, especially for those nations in which that language is completely unknown; it is also necessary that their fidelity, at least in the essential matters, be established, and sometimes it is not advisable for certain books to be reprinted, and therefore not advisable to be translated into other languages; furthermore, translations often contain notes, documents, and arguments that are not found in the original text: these, however, must be subject to ecclesiastical censure and approval, since they deal with matters relating to religion and moral honesty. But if they deal with purely natural sciences or arts, these translations can also be printed without hindrance.

81. This paragraph 45 contains two things: 1. Books condemned by the Apostolic See should be considered prohibited everywhere; 2. and in whatever language they are translated. Both of these laws were sought from ancient law and confirmed. The first is evident from the instruction of Clement VIII, in which, in § VI, concerning the prohibition of books, it is stated: "In all matters concerning evil and harmful books, it is declared and established that those books which, having been published in a certain language at the beginning, and then prohibited, and condemned by the Apostolic See; the same, also, when translated into whatever language afterwards, are considered by the same See, everywhere among the nations, to be prohibited and condemned under the same penalties." This precept was brought to the attention of all the Bishops of the Church by the Sacred Congregation of the Index on March 4, 1828, and was prefixed to the Index. Such a prescription is so in accordance with reason that a law would be useless if books condemned by the Apostolic See could be read without hindrance when translated into other languages. The first is evident from the power with which the Roman Pontiffs are able to prohibit harmful books for the entire Church; from the fact that the Regulations of Trent and other decrees were made and promulgated for the entire Church.

[*Latin ed. p. 521*]

COMMENTARY 521: Near the end of Rule X, we read: "Furthermore, it is commanded to all the faithful that no one dare, contrary to the prescriptions of these rules, or the prohibitions of this Index, to read or possess certain books," as the Roman Pontiffs have defined that all the faithful are bound by the Indices compiled by them. It suffices to refer to what Benedict XIV promulgated in a brief letter of his, dated December 23, 1757; which begins: "Concerning the matters of the Catholic religion:" "We, according to our intention, in these present letters, insert the Index hereinafter pre-

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sented, having the authority of the Apostles, by the tenor of the present, we approve and confirm it, and we command and order that it be inviolably and without exception observed by all and each person, wherever they may be, under the penalties established both in the Rules of the Index and in other letters and Apostolic Constitutions, which we confirm and renew by the tenor of the same present. Notwithstanding any apostolic, general, or special letters, constitutions, and whatever statutes, decrees, customs, styles, and other things to the contrary." (a) For this reason, there is no reason to defend those who would say that the Index does not have authority everywhere, and that its decrees can be violated with impunity in some nations; for the laws are absolute and universal, both those issued by our predecessors and those issued by Leo XIII. However, this is understood concerning books condemned by the Apostolic See, not by Bishops; since the decrees of the latter only bind those within their own diocese; and there may also be a special reason, not common to other dioceses, why a particular book may be prohibited. Otherwise, as we have said, the decrees of the Supreme Inquisition and the Holy Congregation of the Index come into play in this matter on behalf of the Apostolic See; but not those promulgated by the Sacred Congregation for the Propagation of the Faith, since these only bind those who reside in places subject to that Congregation. 82. A twofold class is distinguished in the law of vendors, and two...

(a) Cf. Bouix: *Tractatus de Curia Romana*, page 488. Arndt: *De Libris prohibitis*, 101, and following.

[*Latin ed. p. 522*]

522. COMMENTARY: A collection of books of various kinds. These include all books, and especially those which are publicly proclaimed to be Catholic. It is understood who the latter are; but what of the former? Are even non-Catholics to be understood? Or those who, although living within the bosom of the Catholic Church, seem to disregard its laws and commandments? Booksellers, for example, who, desiring only profit, keep the worst books in their shops, and sell them indiscriminately to anyone, offering them at a low price. Indeed, the Roman Pontiff seems to refer to these when He is accustomed to exercise His authority, especially against those who are openly and manifestly non-Catholic, although they are subject to the Church through baptism. However, these and all others must know that books which are plainly obscene are forbidden by both natural and divine law; and for this reason, unless by the command of the Roman Pontiff, certainly they are bound by natural and divine law to observe such a law. Therefore, no seller can keep, lend, or sell such books. Nevertheless, these books are only bound by the law if they explicitly treat of obscene matters; what this means has been explained elsewhere. Therefore, they are not bound by the law if they incidentally treat of obscene matters, or if they are the works of ancient or modern authors,

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whom they call "classics," and who are permitted only to those whose office or teaching requires it. For since these books are permitted to certain individuals, as stated in Chapter IV, § 10, it is certainly not forbidden to display them for sale, since, even with permission granted, no one can use that permission improperly. It is, moreover, understood by everyone that this precept is most salutary, and almost necessary. For obscene books bring no benefit whatsoever, but rather many harms, and those harms are certain and evident. There are, in particular, those books which are disseminated by treacherous individuals and are utterly devoid of religion and piety; there are those books which are given to the unsuspecting youth, so that, as if poisoned, they become the worst of people, and are most suitable for the machinations of Masonic sects. The evident fact and proof of this evil design is that the most hideous images are everywhere painted and publicly displayed, especially in those small boxes which are commonly called "cerini" in Italy, so that honest buyers should be horrified, and among the many, they choose those which appear less obscene; and it is known to many that this was ordered by decree of the Masonic sect in Italy. The same must be said of obscene books.

[*Latin ed. p. 523*]

COMMENTARY 523 Lest these sellers attribute their trade to wickedness, Catholics are requested not to frequent such bookshops and to refrain from purchasing any books therein. These sellers should not claim that they are experiencing hardship due to a decrease in profits if they do not have obscene books for sale; for any profit must be honest and acquired without sin; but to sell such books is to contribute to the spiritual ruin of others, to violate natural, divine, and other rights; therefore, it is a most grievous sin. The same argument could be made by the owners of brothels, public prostitutes, and all those who profit from wickedness; they should seriously consider that such evil is in no way permissible and cannot be justified. However, the matter must be clarified. The legislator prohibits sellers from retaining, selling, or lending books that explicitly treat of obscene matters. But when we are dealing with objectionable matters, those who possess such books are not, under the law, considered sellers. What then? R. Those who possess such books are not, under the present law, considered sellers; however, since such books are completely prohibited, and as explained previously, the prohibition prohibits retention, sale, lending, etc., all are bound by that law, as are the sellers who are bound by the present paragraph. Sellers may retain, lend, and sell other prohibited books that do not treat of obscene matters, provided they have previously obtained permission from the Holy Congregation of the Index, through the Ordinary. What then, if the sellers, without consulting the Ordinary, have obtained this permission from the Holy Congregation of the Index? R. The permission is valid, unless something else prevents it, since the authority of the Holy

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Congregation of the Index originates immediately from the Roman Pontiff, and surpasses the power of the Bishops. However, booksellers should be aware that the Holy Congregation often requests testimonial letters from the Bishops, even for granting permission to read prohibited books; therefore, such permission will only be granted to booksellers for a very serious reason (and we do not know if such a reason could exist) to grant booksellers such permission. We believe that booksellers will waste their time and effort if they dare to request this permission without consulting the Ordinaries; and this is all the more so because the legislator expressly states that permission must be requested through the Ordinary. However, given the hypothesis, the sellers are required to show the permission obtained from the Bishop.

[*Latin ed. p. 524*]

524 COMMENTARY: It is necessary to inquire; for since this person has the ability to request permission from the Holy See, he cannot be lawfully denied the knowledge of this, lest deceptions be perpetrated, or the vices of trickery and fraud occur; furthermore, so that he may see whether and within what limits he is restricted. However, booksellers are obligated to sell to those who prudently believe they may legitimately request them. But by the adverb "legitimately," it is not required that buyers demonstrate to booksellers that they have the right to read and possess prohibited books; for if this were the meaning of the decree, booksellers would not make judgments, but would certainly know that buyers are legitimately requesting them; therefore, the meaning is that booksellers ought to prudently judge and be able to judge whether the person requesting the prohibited book is suitably qualified; for example, if he is a public, Catholic professor, whether ecclesiastical or lay: or any secular person who is Catholic, not only in words but also in deeds; or others whom the bookseller knows to have obtained suitable qualifications to read and possess prohibited books; and also a pious young man who affirms that he has obtained permission from the Bishop to read such a book. Our legislator also tempered the ancient law in this matter; for under that law, booksellers were not even able to keep prohibited books in their bookstores. Indeed, the Tenth Session of the Council of Trent decreed: "Furthermore, in each city, in each diocese, in houses or places where the art of printing is practiced, and in bookstores, the libraries of books for sale should be frequently visited by persons appointed for this purpose by the Bishop, or by his vicar, and also by the Inquisitor for heresy, so that nothing that is prohibited may be printed, sold, or possessed. All booksellers and those who sell books must have in their libraries an Index of books for sale that they possess, with the signature of the aforementioned persons; nor shall they have, sell, or in any way give away any other books without the permission of the same appointed persons, under penalty of the loss of the books, and other penalties to be imposed at the

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discretion of the Bishops or Inquisitors; and buyers, readers, or printers shall be punished at their discretion." Therefore, since Leo XIII wished to consider the profit of booksellers, these people diligently take care to observe the law enacted by him. 83. Finally, the legislator inflicts penalties on those who transgress the decrees of his laws; and in this section, § 47, he punishes them with a major excommunication, specially reserved to the Roman Pontiff, namely, those who knowingly, without the authority of the Apostolic See, read or possess [prohibited books].

[*Latin ed. p. 525*]

COMMENTARY 525: They print, and in every way defend, books that promote the heresy of Apostates and heretics, and also books by any author specifically prohibited by Apostolic letters. Indeed, the Legislator has established this, and it is repeated almost in the same words as the statutes already established in the Apostolic Constitution concerning the moderation of Excommunications, promulgated by Pope Pius IX in 1869, Chapter II, Section 1; a Constitution which we ourselves have adorned with commentaries; therefore, anything that is written there must necessarily be repeated in this Commentary (a). Therefore, I. In order for those who transgress to incur a major excommunication, they must knowingly perform the prohibited action. But this adverb implies prior knowledge of the prohibited thing, since without knowledge of the prohibition, neither any penalty is incurred, nor is any sin committed: but a penalty is not given without guilt. Hence, those who transgress must know that the book they are reading, printing, etc., was written by a notorious heretic or apostate, that is, by someone who is publicly known to be an apostate or a heretic, or, whoever the author may be, who has been specifically prohibited by Apostolic letters. If any of these things are unknown to the transgressors, they are not subject to excommunication, since the conditions for incurring the penalty have been determined by the Legislator himself, and since in matters of penalties, the law, as proposed by the Legislator, must be observed in order that major penalties may be incurred. Certainly, the adverb "knowingly" does not only affect those who are reading, but also all others, that is, those who are retaining, printing, and in every way defending [the prohibited books]; and this is not only because without prior knowledge, neither sin nor ecclesiastical censure is incurred, but also because there is no reason why the others should not be affected by that adverb. Those who are reading, as we explained on page 44, are not those who have a prohibited book before their eyes, or who silently pronounce its words and sentences in their minds or aloud, or who hear others reading, but those who understand what they are reading; for if they do not understand, they do not perceive whether what they are reading is good or bad, and prohibited; consequently, they cannot be corrupted; and it is the removal of this corruption that the legislator intends. Furthermore, that chapter was

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explained to him by the Reverend Peter Avanzini, a priest from Rome, who, having barely begun his commentary, passed away.

[*Latin ed. p. 526*]

526. A COMMENTARY: Those are said to *read* a banned book who understand what they are reading. Legislators, according to the usual meaning of words, enact *leges* (laws): and this is especially true in the case of prohibited materials. Those who *retain* books are those who keep such books with them, either by lending them or by preserving them, for example, if the owner, about to travel abroad, entrusts the books to a friend for safekeeping. However, we do not believe that the term "retainers" applies to those who receive books (commonly called "messengers of books"), to whom books are delivered in order that they may, for a price, return them; and those who are entrusted with banned books to deliver them to others should be considered similar. If we are not mistaken, the word "retain" seems to signify a continuous action, at least for a certain time, in relation to the offense of violating the law. Printers are those who subject a banned book to the printing press; and those who assist in the printing process, except for the author, who is subject to a major excommunication under another heading, incur the prescribed penalties (Cf. ibid.). But it should be remembered that those who assist in the printing process must know that the work they are printing is heretical, apostate, or specifically condemned by apostolic letters. However, it is clear that many workers who contribute their labor to the printing press, even in the case of prohibited materials, do not know what work they are doing; therefore, they should not be judged based on the material produced, but on the knowledge they have of the prohibited work; moreover, they will suffer a serious loss, such as the loss of their job, unless they are dismissed from their work. For ecclesiastical laws, especially those that impose penalties, do not apply if they cause a serious burden. Those who *defend* a banned book are those who defend its doctrine, or its arguments, or its merits, or its praises, and not those who prevent it from being delivered to superiors or destroyed (Cf. page 45). This last meaning is also excluded, because in our time, no ecclesiastical authority could compel someone who is unwilling to destroy a book, or to deliver it to the ecclesiastical superiors; and laws are not enacted regarding things that are impossible, or that are very difficult to accomplish. The adverb "quomodolibet" (in any way) does not imply that a material or violent defense is also included; for the adverb clearly follows its true meaning, even when applied to a single scientific defense, since this defense can be carried out in many ways, for example, through arguments, commendations, or refutations.

[*Latin ed. p. 527*]

COMMENTARY 527: On the refutation of merits, concerning those who

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hold contrary opinions, etc. Furthermore, when we are dealing with odious writings, and when there is doubt as to whether this law also extends to material defense, all understand that the minimum that must be held is this. In order for a book to be subject to censure, it must have been written by someone who has apostatized, or by a heretic, or it must have been specifically prohibited by apostolic letters. One is called and is considered an apostate, who has completely abandoned the Christian faith received through baptism. Therefore, books written by non-believers, wicked Catholics, heretics, supporters of heresies, or by those who believe in heretics, do not fall under the name of "Apostates"; for these are not apostates. However, such individuals are considered and are free thinkers, who adhere to no faith and no dogma. A heretic is one who stubbornly errs against some dogma of the faith; not, therefore, one who errs in good faith, or without persistence. Persistence is the obstinate and unwavering adherence to error against the faith. Hence, the difference between a heretic and an apostate lies in this: the former has rejected all dogmas of the faith, while the latter has rejected one, or several, but not all. Books that have been specifically prohibited by apostolic letters are those that the Roman Pontiffs proscribe through Briefs, Bulls, Encyclicals, or other Constitutions, in which they declare that they are making a decision by the fullness of their power, or by apostolic authority; indeed, these are called apostolic letters. However, the book must be specifically prohibited, that is, by the designated title of the book, and also by the author, if the author's name is preferred. In order for these books to be included under the censure of excommunication, they must be of such a volume that they are considered books; hence, they must consist of approximately ten sheets; for the legislator speaks of books. For this reason, ephemerides, diaries, sheets, and periodicals that do not amount to ten sheets are not subject to the censure of books, nor are they subject to such a penalty; as is also stated elsewhere in a decree. This was approved by the Supreme Sacred Congregation on April 27, 1880. However, if such sheets are compiled into a single volume, in which case a book is truly and properly considered to be such, then those who read it incur excommunication. We also know that this has been declared by the Supreme Sacred Congregation in the following decree, issued on January 13, 1892. The following question was proposed: 1. Whether those who knowingly read publications in fascicles bound together, which have a heretical author, incur...

[*Latin ed. p. 528*]

528 COMMENTARY: Those who defend heresy incur excommunication, concerning which the Apostolic Bull of the Holy See of October 12, 1869, in the section concerning excommunications reserved to the Holy Pontiff in a special manner, article 2, applies. The response to question 1 is affirmative (a). Furthermore, they must defend heresy. "Indeed, as Saint Alphonsus

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writes, one defends heresy by means of a book which intends to establish and defend heresy with all its might." Conversely, "one does not defend heresy with a book in which some heresy is presented incidentally and in a few words, as if it were something else." However, for a book to be said to defend heresy, it is not necessary that the subject matter of the book be inherently religious, but it suffices that it be directed towards proving heresy, and that it attempts, through its work and by its very nature, to promote and defend it (b). It is not sufficient merely to contain heresy (cf. page 54). However, even if a book defends heresy, in order for someone reading it to incur excommunication, they must read either the part that defends heresy, or a notable part, if the subject matter is indifferent, as Saint Alphonsus also believes (e). Finally, to read, print, or retain [a prohibited book] is permissible only with the permission of the Apostolic See, by which term are also understood the Congregations of the Holy Office and the Index, and other Roman Congregations (d); for with this permission, all prohibition and penalty cease. Finally, something must be said concerning the greater excommunication that has been imposed. Since it is reserved to the Roman Pontiff in a special manner, it can only be lifted by his special authority, except in the case of death, in which case any reservation ceases; however, with the condition imposed that the one who has recovered from illness must observe the mandates of the Church. Whoever, without such special authority, lifts this excommunication:

(a) Acta S. Sedis XXIV, 625.

(b) We have taken this testimony of Saint Alphonsus from other writers. However, we have not been able to find it with Saint Alphonsus in the places indicated, nor in others that we have examined. We used the Marietti edition of the year 1880. - This is for the information of the reader, and unless our eyes have deceived us.

(c) Lib. VII, n. 284. Cf. Arndt, Op. cit. 218.

(d) This is also evident from the declaration of the Holy Office of January 15, 1892. Concerning the question: "II. Do the acts issued by the Holy See designate only those acts which originate directly from the Supreme Pontiff, or also those which originate mediately from the Supreme Pontiff, or (so) from the SS. RR. Congregations?" "R. Ad II. Negatively to part 1; affirmatively to part 2." (Acta S. Sedis XXIV, 625).

[*Latin ed. p. 529*]

COMMENTARY 529 truly presupposes that, by the very fact of the bond of excommunication, it is reserved to the Roman Pontiff. Furthermore, all of these things were confirmed by Pope Pius IX in the aforementioned Apostolic Constitution with these words: "Concerning all those excommunications (that is, the twelve first ones) for which absolution has hitherto been reserved to the Roman Pontiff in a special manner, and for which we declare that no general concession to absolve from sins and censures, or

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from excommunications reserved to the Roman Pontiff, is sufficient, we also revoke all indulgences granted with respect to them, under any form and to any persons, even Regulars of any Order, Congregation, Society, and Institute, even with special mention, and in any dignity. Those who presume to absolve, without due authority, even under any pretext, from the bond of excommunication reserved to the Roman Pontiff, let them know that they are doing so, unless it is a matter of the hour of death, in which case, however, it must be firm regarding the obligation of those absolved to observe the mandates of the Church, if they recover." Since, after various commentaries on this Constitution have been published, the declarations of the Supreme Sacred Congregation have appeared, to which alone the authentic interpretation of the aforementioned Constitution pertains, and among these is one in which it is determined what the words "obligation to observe the mandates of the Church" mean, we believe that such a decree should be included in this commentary. Therefore, the following questions were presented to the Supreme Sacred Congregation for clarification: "Regarding the feet of the deceased, it is explained as follows: 'It has been declared by the Apostolic See that there is no reservation, if it is a matter of the hour of death, but it was added: 'in which case, however, it must be firm regarding the obligation of those absolved to observe the mandates of the Church, if they recover,' without any mention of the penalty of relapse, if this obligation is not fulfilled, nor any explanation regarding the meaning of the words: 'obligation to observe the mandates of the Church.'" From the decree of the Holy Office (June 30, 1886), absolution from censures, even those reserved in a special manner to the Supreme Pontiff, may be granted in more urgent cases, under certain conditions; but in the aforementioned decree, it was not stated whether this absolution is direct or indirect. From this, several difficulties have arisen. Therefore, the Advocate asks: Acts, Vol. XXX, page CCCLVII, 34.

[*Latin ed. p. 530*]

530 COMMENTARY: "I. Whether the obligation to observe the mandates of the Church, imposed by a Bull of the Apostolic See, is subject to the penalty of reincidence, or not?

II. Whether the obligation to observe the mandates of the Church, in the sense of the Bull of the Apostolic See, means the same as the obligation to appeal to the Holy Father, or whether it should be distinguished from it?

III. Whether absolution granted in more urgent cases from censures, even those reserved in a special manner to the Holy Father, in the sense of the Decree of the Holy Office (June 30, 1886), is direct, or only indirect?

Answer: Thursday, August 19, 1891. In the general Congregation of the Holy Roman and Universal Inquisition, after hearing the report on the aforementioned petition, and with the prior vote of the Most Reverend Consultors, the Eminent Cardinals, General Inquisitors in matters of faith

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and morals, ordered that the following be answered:

"To I. Affirmative to the first part; negative to the second part.

To II. The obligation to observe the mandates of the Church implies the burden, either by oneself or through a confessor, of appealing to the Supreme Pontiff, and of obeying his mandates, or of requesting a new absolution from one who has the power to grant absolution from censures reserved in a special manner to the Holy Father.

To III. Affirmative to the first part; negative to the second part." (a)

However, let no one think that those who, at the point of death, have been absolved from an excommunication simply reserved to the Roman Pontiff, are also bound by the same obligation to appeal to a superior; for both the law is odious which prohibits us from extending it case by case, and the Supreme Inquisition has defined such a question.

Questioned: "III. Whether modern authors correctly teach that, after the Constitution of the Apostolic See, those who, at the point of death, have been absolved by any confessor from any censures, whatever they may be, and in whatever manner they are reserved, only then are obligated to appeal to a superior upon regaining their health, if the absolution is from censures reserved in a special manner to the Pope; whether such an appeal to the superior is also necessary in the case of absolution from censures simply reserved to the Supreme Pontiff?"

The Supreme Inquisition answered on Thursday, June 17, 1891:

"To III. Affirmative to the first part; negative to the second part." (a)

(a) Acta S. Sedis XXIV, 746.

[*Latin ed. p. 531*]

COMMENTARY 531: "A certain part, according to the resolution of Thursday, June 28, 1882" (a). And this is sufficient for the explanation of this paragraph. If anyone desires more, let him consult the Commentators on the Constitution of the Holy See, Avanzini, D'Annibale, Pennacchi, Piat, Bucceroni, Ciolli, the Commentary on the "Pata vinum," and others. 84. This penalty also derives from the Constitution of the Holy See, by which those who print or cause to be printed books concerning sacred matters without the approval of the Ordinary are subjected to excommunication. Such a decree tempered the Tridentine law by Pope Pius IX, which not only imposed excommunication on those who printed and caused to be printed, but also on those who sold and kept [such books]; moreover, those who disseminated manuscripts concerning sacred matters (b). Furthermore, the penalties established by the Council of Trent were not the same as those established by the Fathers of the Lateran Council V (c), since the latter renewed only one penalty of anathema and a monetary fine in Canon 5 of the most recent Lateran Council, and no others. However, the monetary fine had undoubtedly fallen into disuse; therefore, Pope Pius IX

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retained only the excommunication, and abolished all other penalties, and our Legislator instituted this decree. However, Pope Leo XIII expressed this law much more clearly, when he explicitly defined sacred books; so that, unlike before, it is no longer necessary to inquire which books treat of sacred matters, since he clearly indicates that they are the books of the Holy Scriptures, or their annotations, or commentaries. This was ratified by the Supreme Sacred Congregation through a declaration issued on Thursday, December 22, 1888. Indeed, when properly questioned, it responded: "To those who print or cause to be printed books concerning sacred matters without the approval of the Ordinary, the penalty of excommunication is imposed..."

(a) Acta S. Sedis, XXIV, 745-746.

(b) Cf. Pennacchi, Commentaria in Const. Apostolicae Sedis, Vol. II, p. 225 and following, and other Commentators on the Piana Constitution.

(c) These were the penalties established by the Fathers of the Lateran Council on May 4, 1515: "Whoever dares to act otherwise, besides the loss of printed books, and the public burning of those copies, and the payment of one hundred ducats to the Fabric of the Prince of the Apostles in the City, without hope of remission, and the suspension of the continuous exercise of printing, shall be declared excommunicated."

[*Latin ed. p. 532*]

532 COMMENTARY: "It must be restricted to the books of Holy Scripture, and also to their annotations and commentaries, and by no means extended to any books whatsoever that treat of matters pertaining to religion in general" (a). Therefore, it is clear and evident that Pope Leo XIII intends excommunication only for those who, without the approval of the Ordinary, print or cause to be printed books of Holy Scripture, or their annotations, or commentaries; and therefore not for those who read, retain, or defend them in any way. As to whom are designated by the name of "printers," we explained in the preceding paragraph. Those who cause to be printed are all those who entrust the printing to the printing press; especially editors and authors, if these entrust the book they have completed to the typesetter with their own funds; but not if they sell a manuscript, without any condition attached regarding its printing; for in this case, they do not cause the books to be printed. Indeed, we are of the opinion that authors are not bound by the law, even if they sell a manuscript with the condition that it be printed; for in this hypothesis, they do not truly and properly cause it to be printed, since the action that the legislator prohibits is the action that is proximate and direct, that is to say, which immediately tends to the printing of books: but the author's direct and immediate action is the sale of the manuscript, to which the printing subsequently follows; but this, everyone sees, belongs to the buyer of the manuscript, since he is truly the one who causes the book to be printed, not the author. This buyer,

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indeed, by the attached condition, compels the book to be printed; but he does not cause it to be printed, since the order to print and all the rest are attributed and pertain to the buyer of the manuscript alone. However, we submit this opinion to the judgment of the readers, and if they recognize it to be true, let them follow it; otherwise, let them reject it. Finally, it must be inquired whether those who "cause to be printed" can be understood to mean those who, with their authority, cause these books to be printed, but contribute nothing to the printing itself. For example, if some administrator of a kingdom and another secular prince order a well-known editor, or the author of a work, to cause a certain commentary on Holy Scripture to be printed. R. They do not seem to be understood in this way; since the words of the legislator are obvious (a).

(a) Acta S. Sedis XV, 536.

[*Latin ed. p. 533*]

COMMENTARY 555. And, in the common understanding, which is how they ought to be understood, some editors and authors are designated, and not just any who submit something for printing. Laws are indeed established concerning those things which frequently occur, not concerning those which rarely occur; and it frequently happens, almost always, that editors are those who cause books to be printed, and not others; therefore, the legislator should be understood to be speaking of them. Furthermore, the legislator did not express that those who assist, namely, those who offer counsel, favor, etc., are included; therefore, he should not be considered to have intended to include them under the law. Finally, from the words of the law, it is not clear whether those who cause something to be printed are included by name, or whether those who assist are also included under it; therefore, it is not permissible to extend it to them. But since this excommunication is not reserved to anyone, it can be lifted by any approved confessor.

85. Except for the aforementioned anathemas imposed by the Roman Pontiff in the preceding paragraphs of this Chapter, the correction of those who violate other decrees is entrusted to the judgment of the Bishops. And first, these transgressors are taught to be admonished according to the gravity of the offense, and that no penalty should be imposed upon them after admonition has been given. Indeed, this is just; because canonical penalties are to be inflicted upon the stubborn and obstinate. Therefore, let the Bishops, in their admonitions, first restrain themselves, whether with mild or severe words, and let them not proceed to inflict canonical penalties unless the obstinacy of the transgressors is evident. And this even more so, given the present conditions of the times, because transgressors might turn admonition into mockery, and openly disregard the penalties imposed, and might cause considerable trouble to the Bishops. Nevertheless, it is permissible for them to proceed to inflict canonical penalties if they deem

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it appropriate; but they are warned with these words, that penalties should not be imposed easily, unless a good result is foreseen; for canonical penalties are medicinal; but no medicine is given to the sick if it is useless, much less if it is foreseen to increase the illness. Therefore, let the Bishops first consist in their admonitions; if the matter is serious and difficult, let them refer it to the Roman See, and await its judgment; but if they must necessarily proceed to impose penalties, let them do what prudence suggests, what the nature of the offenders allows, and what the zeal for their amendment demands; nothing moved by undisciplined zeal, or anger.

[*Latin ed. p. 534*]

534 COMMENTARY. It is indeed difficult to suggest to Bishops what they ought specifically to do against transgressors; for this is determined by the conditions of the regions, the laws in force, the character of the individuals, and other circumstances. Nor do we wish to incur the mark of presumption. Therefore, we prefer to commend the opinion which the great Gregory put forth in Book V of the *Moralia*: Let the strength of discipline temper gentleness, and let gentleness temper the strength; and thus let one be recommended by the other, so that neither is strength rigid, nor is gentleness dissolute. And with these words of so great a Pontiff, we bring this our Commentary to a close, for the greater glory of God. In Rome, on the 12th of April, 1898.

[*Latin ed. p. 535*]

555 QUESTIONS PROPOSED TO THE AUTHOR FOR RESOLUTION:

I. Are books prohibited in the ancient Indian regulations, unless they fall under the new regulations, to be considered as prohibited?

R. No. Cf. page 53.

T. The best books, especially those written in foreign languages on matters pertaining to religion, are to be read; however, ecclesiastical approval is desired for them. For example, "Réponses courtes et familières à quelques-unes des objections les plus répandues contre la Religion" by Mr. de Segur. Are these books to be considered prohibited, or not?

R. No. Indeed, these books are either included under § 20, which declares books of religious doctrine and instruction to be prohibited if they are published without the license of legitimate authority; or under § 41, which states that all writings should generally be subject to ecclesiastical censorship, especially those in which religion and the honesty of morals are particularly involved. If these books are not prohibited, it is because their publication precedes the new law, and because it is understood that the tacit consent and approval of the Bishops has been given.

M. If the former; no book subject to ecclesiastical censorship is declared

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prohibited solely because of the lack of ecclesiastical approval.

3. Is a license to read prohibited books, which one has obtained under the old law, valid even under the new law?

R. It is entirely valid for this reason, because the license was granted for the purpose of reading prohibited books, and these books are prohibited both under the old and the new law. Usage confirms this; for those who had such a privilege under the old law were not compelled, nor did they feel compelled, to request it anew after the new law, nor was there any revocation of the privileges, which would have been clearly desired.

4. Can Bishops approve those books, as happens especially in Gallia, which are called "Paroissiens," or other books, in...

[*Latin ed. p. 536*]

By which is contained the complete text of the Gospels in the Gallic language without any notes? R. They can; because these books are available, and they are truly books of devotion, the approval of which pertains to the Bishops. It does not hinder that the Gospels contain no notes; indeed, § 7 of the new law speaks of vulgar versions of the Holy Scriptures; but these books do not fall under such a category. Finally, since these books are completely known, not only to the Bishops, but also to the Roman See, and no one has raised a voice against them, there is no reason for the Ordinary of the place to be concerned if they approve them.

WARNING TO READERS, page 95 of this Commentary: "Let no one therefore infer, under such a paragraph, that those are also included who deny all and each things of the Holy Scriptures to have been written under divine inspiration." Indeed, this is correct and true as far as the exposition of the law is concerned; for he who denies one or another passage of the Divine Scriptures to have been inspired, cannot be said to be excessively restricting the extension of the inspiration of the Holy Scriptures, nor can the Legislator condemn the books of such a person. This is evident from the fact: for there are even among Catholics who have affirmed this, and therefore their books have not been condemned by the Roman Pontiffs. The rest we recall until the aforementioned applies.

[*Latin ed. p. 537*]

537. RESPONSE of His Holiness, Our Most Holy Father Leo, Pope XIII, to the Most Eminent Cardinal Dean, on the day before the feast of the Nativity of Christ, in the name of the Sacred College, bearing auspicious tidings (i) on December 23, 1897. "Praise be to the divine goodness which has preserved Us to witness once again the beloved solemnity of Christmas; and may thanks be given to the Sacred College, which seizes the opportunity to offer Us once more the tribute of its devotion: a devotion which always finds from Our side the most ample return of affection. We gladly receive from your lips, Most Eminent Cardinal, the holy and pious vow concerning

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the kingdom of peace: a precious and fruitful good, for which, mindful of Our spiritual fatherhood, We are the first to earnestly pray to Heaven for the entire world. It is true that, considered in the breadth of all its connections, the problem of peace will never find a complete solution here below, since it is written in the decrees of Providence that the life of man on earth must be a life of warfare. The passions, which disturb everything, cannot be separated from human nature, which fell in Adam. However, there is a certain peace of spirit; indeed, there is also a certain outward tranquility and composure, which are very well compatible with the state of warfare, and consist in..."

[*Latin ed. p. 538*]

538. RESPONSE: Essentially, within the tranquility of order. For this reason, the relative peace, permitted to humankind on its journey, is neither other than, nor can it be, the daughter of justice and love. Such is that peace proclaimed one day by the angelic choir above the manger in Bethlehem, unknown to the pagan centuries. It is one of the inestimable fruits of the human redemption, and, as she rightly argues, Most Reverend Cardinal, it has its root in the observance of the laws and examples left to us by Jesus Christ, the Redeemer. And just as man did not know it except through Him, so too does he lose it whenever he turns away from Him. For since the law of God is truth in the intellectual order, and sanctity in the practical order, from it springs the ineffable peace of a pure conscience, and from it that heavenly spirit of patience and charity, which extinguishes wherever it may be the fire of fraternal anger; it puts sentiments of moderation and beneficence in the hearts of the wealthy and the powerful, and it infuses into the humble and the dispossessed of the world that serene resignation, which is nourished and strengthened in the sure hope of eternal promises. Thus, when the divine law is lost sight of, the very foundation of the virtues that maintain moral order, and the true basis of all tranquility, is lost. Hence arises the daily occurrence of discomfort and unrest, which prevents a quiet and tranquil life, which can be most closely reconciled with the state of the militant man, and which consists most especially in the tranquility of order. For this reason, peace, which is fitting for the pilgrim man, is neither, nor can it be, anything other than the daughter of justice and love. Such is that most steadfast peace, which was announced by the angels above the manger in Bethlehem, entirely unknown to the Gentiles. It is itself one of the most outstanding fruits of human redemption, and it, as you rightly argue, Most Reverend Cardinal, has its root in the full observance of the precepts which Christ delivered, and in the faithful imitation of His life. And since man has not known this peace except through Him, therefore, whenever he turns away from Him, he immediately loses it. Since the law of God, insofar as it regards the intellect, is truth, and insofar as it regards action, is sanctity, from it springs the ineffable peace of a pure conscience; from

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it that heavenly spirit of patience and Christian love, which extinguishes everywhere the ardor of anger among those who are inflamed; moreover, it inspires in all the wealthy and the powerful sentiments of moderation and beneficence; and it infuses into the modest and into all those who are in some way disinherited by the world, that Christian submission of the soul, acquiescent to the divine will, which is nourished and strengthened by the certain hope of eternal goods. Therefore, while...

[*Latin ed. p. 539*]

The present generation is tormented by problems. Peace is proclaimed among civilized nations, but this is not true peace, nor can it be, because in too many things we are far removed from He who alone can give it. Perhaps factions will lay down their arms, and public conflicts will cease, but unrestrained desires, the lust for glory, mutual suspicions, and jealousies will never cease in the depths of men's hearts, unless Jesus Christ, with His faith and His law, reigns there again. Since the true faith of Christ is necessarily one, let everyone understand that when the Church, the Mother of all Christians, lovingly invites all peoples into her embrace, she is not only working for religion, but also for the prosperity of the people. But, compared to other regions of the world, another cause of disturbance has troubled our peninsula for many years. We refer to the discord, which we have lamented on other occasions even from this place, between the Kingdom and the Apostolic See. Indeed, those devoted to opposing factions may easily overlook and neglect this; but he who is free from all partisan zeal, and with a just and impartial judgment, turns his eyes to the law of God, will immediately see that, among all those in whom moral order is preserved, the most outstanding virtue is lacking, and the very foundation of civic tranquility is crumbling. From this arise the troubles and anxieties that greatly disturb human society. Among the most civilized nations, prayers for peace are proclaimed; but true peace is neither present, nor can it be present; because we are too far removed from He who alone can give it. Perhaps factions will lay down their arms, and public conflicts will cease, but unrestrained desires, the lust for glory, mutual suspicions, and jealousies will never cease in the depths of men's hearts, unless Jesus Christ, with His faith and His law, reigns there again. Since the true faith of Christ is necessarily one, let everyone understand that when the Church, the Mother of all Christians, lovingly invites all peoples into her embrace, she is not only working for religion, but also for the prosperity of the people. But, in addition to other regions of the world, another cause of disturbance has been plaguing Italy for many years. Indeed, the discord, which we have lamented on other occasions even from this hall, between the Kingdom and the Apostolic See. This, indeed, those devoted to opposing factions can easily overlook and neglect; but he who is free from all partisan zeal,

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and with a just and impartial judgment...

[*Latin ed. p. 540*]

540. RESPONSE: Therefore, one cannot fail to see the harm in it and to desire its end. But is this our unheard-of condition, which deeply troubles so many devoted children of the Church throughout the world, truly a source of tranquility? Or is this clamorous rupture with the memories, sentiments, and historical laws of the Italian people a guarantee of security? For it is no secret that the present condition of hostility towards the Pontiff is repugnant, not to mention, to the traditions and even to the very nature of the Italian nation. Therefore, it will never have the support of the majority of Italians, who are Catholic in their hearts, and who are accustomed to regard the papacy as a bulwark of their salvation and greatness, and to consider it as the head and heart of the nation. If, therefore, they show that they understand that political unity alone is not enough to make the nation more prosperous; if, by a natural instinct of self-preservation, they seek to draw closer to the See of Saint Peter; if they desire the Pope restored to his rightful independence and reintegrated into his rights, then it is wrong not to understand the true nature of such intentions; and it is even worse to confuse peaceful citizens with subversive factions. But, however ingrained these false concerns may be, it cannot escape the most discerning that there is a providential order by which those who are, in their understanding, closely linked with the Apostolic See, will perceive the inconveniences that result from this, and will foresee a sad end. Truly, is this our utterly unheard-of condition, which so deeply troubles all those throughout the world who are devoted children of the Church, truly a sign of tranquility? Is that clamorous war declared against the most ancient monuments of the Italian people, their religious sentiments, and their historical laws, a guarantor of public peace? For it is no use concealing the fact that the present condition of hostility towards the Pontiff is entirely contrary to the ancient traditions of the people, and even to the natural character of the Italian nation. Therefore, it will never obtain the support of the majority of Italians, who are deeply Catholic, and who are accustomed to regard the papacy as a bulwark of their salvation and greatness, and as the head and heart of the Italian nation. If, therefore, these people show that they understand that the nation's prosperity cannot be increased by political unity alone; if, by a certain natural instinct, by which everyone strives to preserve themselves, they are eager to draw closer to the See of Saint Peter; if they desire the Pope restored to his former freedom, and fully and completely restored to the free exercise of his rights, then it is wrong not to recognize the nature of such designs; and it is even worse to confuse

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peaceful citizens with rebellious factions.

[*Latin ed. p. 541*]

RESPONSE: In this situation, the fate of the Peninsula is at stake, and consequently, the error lies in placing the cause of Italy in such open conflict with the reasons of the Papacy. But when was it ever unbecoming for a State to enter the path of just reparations? And in the present case, no one can measure with thought the moral and material effects that would follow. It is impossible to deny that those who, endowed with greater wisdom, are aware of the divine order, by which the fortunes of the Apostolic See and of Italy are so closely connected, that if one is neglected, the other must fall, cannot fail to see; and that which follows, namely, the error of those who have placed the cause of Italy in manifest conflict with the rights of the Holy See. When was it ever unbecoming for any civil government to spontaneously agree to undertake joint endeavors, so that damages inflicted upon the other may be repaired, as is just? And in the present case, the effects, whether religious or civil, that would follow, no one can estimate. We earnestly implore the most abundant blessings of Heaven upon the Sacred College, and may the Apostolic Blessing, which we bestow with all our heart upon it, and upon the Bishops, the Prelates, and all who are present, serve as a sign of this.

RESPONSE from His Holiness Leo XIII, to the Most Eminent Cardinal Dean of the Sacred College, on the auspicious day of March 2, 1898; a day on which the 88th year of his age and the 20th year of his coronation are celebrated. The demonstrations of religious obedience to the Pope are always directed to a higher purpose than the person. Honoring the Pontiff is to honor the divine.

[*Latin ed. p. 542*]

542. The institution which He instituted, which He Himself presides over, represents, by its height and by the excellence of its degree and the grandeur of its attributes, and the excellence of its works, a unique entity. For this reason, honor is bestowed upon it. Therefore, We have always received, publicly and sometimes even privately, the numerous tributes and all the observances, the solemn demonstrations of devotion, which have accompanied these twenty years of Our pontificate; and similarly, We have always received; and for this very reason, We are pleased with the recent demonstrations of piety which she offered, as Your Eminence remembers, and We have received the expressions of the piety of the people with gratitude. A most vivid memory remains of the first fruits of the priesthood, gathered by the numerous crowds in this very Basilica of the Vatican, on the thirteenth of February, with the intention of honoring the Supreme Shepherd of the Church; and thus, the primacy of the Episcopal dignity, granted to this Roman See by Christ the Lord, was openly professed. In that

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very act, in which they prostrated themselves before Our humble person, they inwardly offered divine honor to that divine institution which renders the pontifical robes supremely venerable. To these acts of religious observance, these acclamations of respect, from every side, responded the hearts of millions of Italians. Therefore, it was not right to offend that enthusiasm inspired by ideas and sentiments that are not only honest and blameless, but holy and due; and yet, it was done, and it was allowed to be done. — It was not, indeed, a chance occurrence, but a sign from Heaven that these sentiments are evident everywhere.

[*Latin ed. p. 543*]

543. It so happens, quite deliberately, that this fervor of souls appears again everywhere, inflamed by the same sentiments. Indeed, in these most difficult times, it seems that God wishes that even the unbelievers should feel, with their own hands, that He Himself is the one who defends the integrity of the Apostolic See, that He vigilantly guards His divine work. Therefore, He adorns the conspicuous Papal Tiara with brilliant lights, and, in order to compensate for the injuries it has suffered, He ceaselessly excites a more vivid feeling of affection and love in the people. This love and affection of benevolent hearts are by no means confined to the boundaries of the Alps and the sea, but are spread more and more each day by the grace of God, and grow stronger in every region, cultivated by more refined morals. We gladly receive this comforting outpouring of affection, which springs forth from a renewed Christian conscience, divinely strengthened, and spontaneously proclaims itself; which protests against unjust oppressions, and claims its right to freely enjoy its liberty, and openly and courageously asserts itself before the entire world with all its might. But alas! How painful it is to see these aspirations of hearts towards Rome, the priestly metropolis, the repository of divine oracles, the dispenser of salvation, so calumniated by so many, or so misunderstood. Why not embrace, as it is, this consoling reality? In the midst of the terrifying storms of this forgetful or unbelieving age, it is the renewed care for one's own salvation that directs the gaze of minds towards the holy city, the guiding star of souls: it is the need for...

[*Latin ed. p. 544*]

544. RESPONSE: May Christ, who leads nations to the throne of His Vicar, be praised. The primary root of the moral and social calamities of our age lies in the weakening of religious sentiments. Every upright soul, every heart concerned for both private and public welfare, ought therefore to rejoice at the present resurgence of Christian spirit, as a foretaste and promise of future salvation. However, the Providence of the Lord does not, like a human being, leave His works imperfect; He has initiated this salutary movement, and He Himself will, sooner or later, expand and perfect

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it for His glory and for the salvation of the human family. We, who are so close to the end of our life, will not see this fruit of divine mercy ripen; but nevertheless, our hearts rejoice in foreseeing and greeting it from afar with desire and hope.

Why do our adversaries, made aware of the truth of this matter, not embrace it, when it is so clear and evident? Amidst the terrible storms of this age, forgetful or even incredulous, the desire to attain salvation compels the minds of men to turn towards the Holy City; moreover, there is a certain necessary inclination of the soul and ardor of mind towards Christ, which leads nations to the throne of His Vicar. The principal cause of all the calamities that afflict the minds of citizens and the entire human society in these times is the relaxation of religious sentiments. Therefore, everyone who is upright and concerned for his own and the common good, should certainly rejoice at this awakening of the Christian spirit, as a foretaste and promise of salvation to come. Furthermore, God's Providence does not usually, like a human being, leave His works imperfect; He Himself has aroused this religious movement among the people, and He Himself, when He judges it opportune, will deign to expand and perfect it for His glory and for the salvation of the human race. Indeed, we, being so close to the end of our life, will not see this fruit of divine mercy ripen; but nevertheless, we foresee it, desire it, and salute it from afar with hope.

[*Latin ed. p. 545*]

545 With a heart filled with joy and mindful of the services you render to Us, We gratefully receive the pious sentiments of the Sacred College, so nobly expressed by you, Most Eminent Cardinal; and in return for your gratitude, We impart the Apostolic Blessing with paternal affection to you and your venerable colleagues, as well as to the Bishops, Prelates, and all those who are here to offer Us their welcome.

EX 3. CONGREGATION OF THE COUNCIL OF PICTAVIENS AND NANNETENS. MATTER OF A MARRIAGE DISPENSATION.

May 8, 1897. Session 24, Chapter 5, Concerning Marriages.

Count Paulus of Pictaviens, having come to Paris in June of the year 1889, encountered a young woman named Carola, who was 24 years of age, in a public inn. There, Paulus, who was then 32 years of age, was captivated by Carola, and, with the consent of the young woman's father, he was joined to Carola in marriage on September 5th of that year. The solemn wedding took place in the city of Nannetens, the bride's homeland, and the newlyweds immediately began their honeymoon journey towards Vichianum, commonly known as Vichy.

However, the marital journey was not pleasant for the newlyweds, for Carola, as Paulus recently asserted, refused to fulfill her marital duties, and neither prayers nor threats were of any avail in persuading her to yield to

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her husband's desires.

SUMMARY OF THE FACTS.

Records, Volume XXX, Page 35617.

[*Latin ed. p. 546*]

546 POITIERS. AND NANNETTE. Whatever may be the truth regarding Paul's assertion, it is certain that, due to the contrary nature and disposition of the spouses, a very difficult conjugal cohabitation resulted; therefore, the man, in the month of December, abandoned his wife, Nannette, and went to Poitiers, intending to obtain a divorce from a lay judge, and later, in the month of July 1890, he requested a dispensation from the Supreme Pontiff, because his marriage had never been consummated due to the wife's reluctance. The advocate for the actor, Paul, began his defense by noting how he immediately, at the order of the Sacred Congregation, brought forward three physicians to give testimony, who had, outside of a legal proceeding, examined the body of Caroline and had provided a written testimony. And, providentially, these physicians, when rigorously questioned in Paris, not only confirmed what they had previously written, but also explained certain things more fully: so that, in all cases, they concluded in favor of the woman's integrity. Based on these declarations, the advocate believes that the lack of consummation of the marriage becomes so clear that no room remains for doubt, especially if one considers the information which the Parisian Curia, with the favor of the physicians of the Sacred Congregation, sent, writing among other things: "As far as their knowledge and honesty are concerned, we can only report good things; for learned, careful, and upright men are held in high regard by the inhabitants of this part of the city, where they reside." Furthermore, the advocate argues, it is not valid to object to that singular opinion which holds that a woman, with an intact hymen, can consummate a marriage, and even conceive, because the Parisian physicians affirm that "in the present case, the conformation of the hymen would not have allowed, even with conjugal relations, anything other than a tearing." And, furthermore, the advocate shows that the marriage simply remained valid, not only according to the judgment of the physicians, DEFENSE OF PAUL.

[*Latin ed. p. 547*]

PICT AVIEN AND NANNETEN. 547. But, according to the constant and sworn assertion of Paul, which is wonderfully confirmed by trustworthy witnesses, who frequently testify under the sanctity of oath, having received what they report with their own eyes and ears. And if Paul did not consummate the marriage while residing in Vichy, nor could he have done so afterwards, insists the advocate. For, when he returned from the marital journey, his heart weighed down with sorrow, he revealed to John Dupré

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the great difficulties that his wife presented to fulfilling the conjugal act. Furthermore, continues the advocate, Elisa Lemaire, who has lived with Paul's mother for thirty years, testifies that the spouses of Pictavie never slept in the same bed, and that frequent quarrels arose between them, and therefore she believed that Carol had refused her husband what was due to him. Indeed, according to the advocate, the wife herself made these things not obscurely known before being abandoned by her husband. There are witnesses who testify that Carol affirmed that she utterly abhorred the act of copulation with her husband. And when Armanda sometimes urged Carol to yield to Paul's just desires concerning conjugal duties, she did not hesitate to respond, "Let us break this, we will never agree on this matter." Finally, the advocate argues that he has sufficiently demonstrated the non-consummation of the marriage, because Carol always treated her husband in a harsh manner, the spouses having been estranged from each other from the very day of their marriage, Paul having always remained steadfast in his testimonies, while the wife, who contradicted him, has affirmed it repeatedly, Paul having consistently given examples of honesty and religion, while Carol, on the contrary, has impudently violated the laws of the Church. Therefore, he concludes, the Court of Nanneten wisely judged that this marriage had not been properly consummated, and transmitted the proceedings to Rome. The advocate does not speak of the reasons necessary for granting a dispensation, since it is already evident that there are many, and indeed very serious, reasons to incline the mind of the Pontiff, which are present at this time.

OBSERVATIONS OF THE DEFENDER, MR. VINCLUS. But the bonds...

[*Latin ed. p. 548*]

548 PICTAVIEN and NANNETENSIS. The defender maintains that there is no certainty regarding the lack of consummation of the marriage, and he is confident that he can demonstrate this with numerous arguments. He begins by stating that Paul was of an unstable character, who, although he repeatedly and vehemently requested the celebration of the marriage, at the very moment of the celebration declared, "Qu'il ne savait pas pourquoi il était là," and that Carola was "Fille unique, et pourtant un peu gâtée" (an only child, and yet somewhat spoiled). Consequently, they were soon separated. Shortly after the separation, the husband sought the dissolution of the marriage, arguing that the wife, unaware of the essence of the marriage, had not given the necessary consent, or at least had not requested that a dispensation be granted regarding the consummation or lack thereof. However, the advocate argues that, from the beginning, there was no doubt concerning the validity or the consummation of this marriage, for an investigation into the matter, initiated by the Ordinary of Nannetensi, was reported on June 20, 1891, to the Sacred Congregation: "J'ai fait une enquête de laquelle il résulte que cette dernière (Carola) ne demanderait pas mieux

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que de donner suite au projet proposé par son mari, mais que sa conscience s'y refuse absolument. Elle a déclaré en effet qu'elle savait parfaitement (puella vigintiquatuor annorum) ce qu'elle faisait en se mariant, qu'elle avait donné un plein consentement, matrimoniumque fuisse consummatum; pendant quelques jours après son retour chez ses parents elle s'est même crue enceinte." Furthermore, the Bishop of Nannetensi, he insists, was far from the truth in the aforementioned report, since Carola, questioned on October 14, 1892, at the request of the Sacred Congregation, by the Judge of Nannetensi, when asked, "Si elle avait librement consenti à son mariage avec M.r Paul?" (If she had freely consented to her marriage with Mr. Paul?), swore that: "Qu'elle avait consenti librement à son mariage, sans y être forcée par personne et sans arrière pensée" (That she had freely consented to her marriage, without being forced by anyone and without ulterior motive). And when the same Judge inquired whether she had consummated the marriage with Paul, she clearly confessed: "Q'elle a rempli ses devoirs d'épouse" (That she had fulfilled her duties as a wife), adding that, if she later refused, it was "par suite de procédés grossiers et violents de Paul à son égard, et par suite de la connaissance qu'elle a ac-" (due to the crude and violent actions of Paul towards her, and due to the knowledge she has ac-).

[*Latin ed. p. 549*]

PICTAVIEN and NANNETEN, 549, concerning her moral value. And, urged by the Judge, since Paul continually asserted that his wife had never wished to fulfill her conjugal duties, Carola responds: "Monsieur Paul can all the less assert that I have never fulfilled my duty as a wife, since during our stay in Vichy, finding me indisposed, he asked the doctor if this indisposition might not be due to the beginning of a pregnancy, and if the treatment prescribed to me would not be harmful if I were in that situation." The defender notes that Carola certainly does not lie, as the aforementioned Bishop wrote on October 15, 1892, to the Sacred Congregation: "When the woman asserted that there was a testimony of a doctor concerning the consummation of the marriage, I found that to be the case, having seen the proceedings of the civil court declaring the divorce." Furthermore, in the cited letter, it is reported how: "When questioned (Carola) finally on the point that perhaps a feeling of animosity and vengeance against Monsieur Paul had dictated her answers, Madame Paul replied: I have as much interest as Monsieur Paul in our marriage being declared null. I care as much about regaining my freedom as he cares about regaining his. But it is impossible for me to speak against my conscience and the truth of the facts." And at the end of Carola's examination, the Judge reports: "Our impression is that she (Carola) was frank in her answers. She did not hesitate nor vary. And she found herself in a situation all the more difficult and delicate to answer, since the questions were asked according to the memorandum drawn up

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by Monsieur Paul, which we had before our eyes." Moreover, that Carola's assertions are in conformity with the truth is irrefutably demonstrated by the events that occurred over time. For Carola has been most wretchedly bound to several soldiers for many years through condemned marriages; therefore, the argument of the non-consummation of the marriage, if it truly existed, would be for her like a single plank of wreckage to legitimize her situation, at least before men. Nevertheless, on June 25, 1894, Carola underwent a judicial examination.

[*Latin ed. p. 550*]

550 PICTAVIEN and NANNETEN, being brought before the Judge, and questioned, the former said: "Have you constantly refused the conjugal duty to your husband?" Under oath, she replied: "No, I have not refused it," and to the question: "Is it true that, through correspondence, you requested your parents to prepare the documents for separation, and that at the same time you announced your pregnancy?" she answered: "I announced my pregnancy; I do not recall having spoken of preparing a separation." When the Judge pressed her: "Do you maintain that you have not refused the conjugal duty?" she added: "I maintain it; I have even suffered demands which are not the conjugal duty."

Now, Paulus claims that the marriage was consummated, but no one adds credence to his claim, because the witnesses, who know him well, do not consider him trustworthy. On the contrary, the lawyer argues, Carola's truthfulness is raised to the heavens. But, the defender of the sacrament insists, apart from the fact that Carola affirms the consummation of the marriage to her own detriment, she has always persevered in her testimony, while Paulus, on the other hand, sometimes affirms the lack of consummation of the marriage, and sometimes denies it.

With such arguments in favor of affirming the consummation, it is futile to present the extrajudicial testimony of August 31, 1893, drawn up by the doctors Le Tanneur, Bidault, and Hubeau, who assert: "It is impossible to affirm that the sexual union has been consummated." Such examinations cannot be held in any value, unless the doctors conduct a physical examination at the order of the Judge, and strictly observe the multiple prescriptions established by law to prevent fraud and collusion, as stated in the Instruction of the Sacred Congregation of August 22, 1840.

Indeed, it is proven that neither the examination by the aforementioned doctors, nor any other precautions prescribed in the cited Instruction, § I and following, were employed. It is also established that Carola refused the judicial examination, deliberately and with a clear intention. Finally, the lawyer concludes, the spouses colluded with each other regarding the

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physical examination of Carola.

[*Latin ed. p. 551*]

PICTAVIEN and NANNETEN, in their petition to the Judge: "Is it true that he [Paul] said, 'I will do everything possible to prevent the civil divorce, unless she [Carola] swears that she has never been my wife?'" Carola responded: "That is true," and Maria, Paul's sister, having been sworn, affirmed: "Madam [Carola] wrote to my mother in this sense, approximately: 'If Paul behaves well towards me, I will do what is necessary for him to obtain the annulment of his religious marriage; if not, he will never succeed.'" With these things as a premise, the purpose was to resolve the doubt as to whether one should consult with the Most Holy Congregation regarding a dispensation concerning a marriage that is valid but not consummated, in this case.

RESOLUTION. The Sacred Congregation of the Council, after discussing the matter on May 8, 1897, decided to respond: "It does not appear that there was a lack of consummation of the marriage."

FROM THE SACRED CONGREGATION FOR BISHOPS AND REGULAR CANONS OF RESTITUTION, FIESOLE. On March 18, 1898, in the Cathedral Church of Fiesole, there exists a simple benefice under the invocation of Saint Donatus, founded since the 16th century, which has, as its endowment, a house located in the city of Florence, and is subject to the jurisdiction of the patron, the exercise of which, in the last year, namely 1867, passed to Alexander Cardi-Cigoli of Florence. He, using the benefice, under the law of Italy of August 15, 1867, concerning the prescription of ecclesiastical property, claimed the aforementioned house from the beginning of the fiscal year.

COMPENDIUM OF THE FACTS.

[*Latin ed. p. 552*]

552 In Fiesole, the sum of 6202, 56 livres was paid, and then an annual pension of 260 livres was assigned to the Rector of the benefice for a time, to fulfill the burden of 104 Masses, which weighed heavily upon said benefice, and from the established pension, a mortgage was registered on the house by the Rector of the benefice, Father Alamanni. This is certainly established by the relevant documents, but it is not so established that the patron had the necessary permission that he ought to have obtained before the Church in order to legitimately claim the endowment of the benefice; indeed, in the Fiesole court, no document exists concerning this matter. Meanwhile, to the patron, Cardinal Cigoli, and his wife, through the entrance of all flesh, the Religious Fathers of the Piarist Schools, as universal heirs, occupied said house. Having become certain of this, the Bishop of Fiesole first approached

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them in a friendly manner, and then, through a document presented to the Sacred Congregation of Bishops and Regulars, he urged them to return the house, which constituted the benefice endowment, and furthermore, all profits or sums of money unduly received as a result of said detention, both by the aforementioned Religious and by their promoter. The Fathers of the Piarist Schools declared themselves prepared to return the house, but with the prior condition that the sum of 6202, 56 livres, which represents the expenses incurred in claiming the benefice, be paid; but they refused the requested sum as a title of profit, and since no possible agreement could be reached between the parties, the matter had to be resolved through legal means. A Synopsis of the Rights of the Fathers of the Piarist Schools: The Piarist Fathers claim two expert assessments to support the value of the house belonging to the benefice, one from the year 1875 and the other from the year 1895, both carried out at the mandate of the Bishop of Fiesole, from which it results that the value of the house amounts to approximately 20,000 livres; this value would be greatly reduced in the event of a forced sale, considering the present economic crisis. Indeed, from data presented by the titular of the benefice, covering the decades of 1860-70 and the years 1859-69, when house rentals in Florencia reached their highest prices, it is determined that the house's income, without deducting expenses, did not exceed 1300 livres annually. Now, if from this annual income...

[*Latin ed. p. 553*]

FESULANA 553: (There were expenditures of 290 florins for the maintenance and eventual non-rental of the house, 294.24 florins for the salary of the procurator, and 310.17 florins for the fruits of the *summa*, totaling 6202.56 florins, paid by the patron; this income is reduced to 246.29 florins. Conversely, it is proven by regular receipts that the titular of the benefice has always received annually 260 florins; hence, he has profited, to the detriment of the religious, 13.61 florins each year. Therefore, the heirs of the patron, Cardi-Cigoli, conclude that nothing was gained from the retention of the house, and that the expenses of 6202.56 florins should be reimbursed to them by the beneficiary for the interest on the benefice. Finally, the religious present a legal attestation from the Ratiocinator Tifi Pratesi, admitted by the Demanii Official himself. From this, it is clear that the income from the benefice's house in the year 1896 amounted to 1050 florins, and the expenses of the house, pertaining to its administration, not including maintenance expenses, amounted to 1319.40 florins. Therefore, according to the religious, the administration of the benefice did not gain anything, as the Bishop of Fiesole unjustly claims, but rather incurred an annual loss of 269.40 florins.

THE RIGHTS OF THE BISHOP OF FIESOLE. Here, through his appointed procurator, he contends that the religious not only refused the agreed-upon expense paid by the patron for the redemption of the

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benefice, but also gained a profit, which must be returned to the benefice along with the endowment fund. Indeed, since the tax imposed by the government for the redemption of benefices from patronage is 30 for every hundred of the value of the benefice's land, it is clear that a considerable sum flowed in. If the patron, Cardi-Cigoli, paid 6202.56 florins for the redemption of the endowment of the benefice of S. Donati, its true value should amount to 20675.20 florins, of which the annual income is 1032.76 florins. If we deduct 310.12 florins for the annual interest on the money paid by the patron, and deduct the sum of 260 florins assigned to the Rector of the benefice, it is evident that there still remains 463.64 florins, which, accumulated over 28 years, since the redemption of the benefice in the year 1869, amounts to a total of 12981.9.

[*Latin ed. p. 554*]

554 FIESOLE. If, therefore, this sum is diminished in the books [libelli] 6202, 56, through expenses incurred by the patron as mentioned above, then the sum of 6779, 39 remains, which represents an unduly received profit, and therefore must be returned by the religious, along with the endowment of the benefice: hence, the total sum to be paid by the Fathers of the Piarist Schools would amount to 27454, 56, according to the books. Furthermore, according to the Bishop of Fiesole, the religious have no right to deduct the annual interest of 310, 12, for the sum paid by the patron to recover the endowment of the benefice: this sum should be considered as the annual repayment of the principal sum. Indeed, according to the laws of the Church, the patron is only permitted to recover the endowment of the benefice, excluding the interest of the benefice itself: the Church allows the patron to deduct the expenses, and sometimes even suspends the obligations of masses for this purpose, but the administration of the benefice does not revert to the patron, but to the titular of the benefice. Hence, the Bishop, through his advocate, argues that the religious unjustly deduct even the annual sum of 59, 20 from the sum to be returned, for expenses of the administration of the benefice. Subsequently, the Bishop's procurator seeks to resolve certain difficulties, despite the objections raised, the first of which is that the value of the fund of the benefice in the books 20675, 20 is not accurate, if, according to the religious, a capital sum of the censuses is to be deducted from it, as shown in the books 8584, 80. The advocate replies that the value of the house in the books 20675, 20 is accurate, because the value itself, which was not accurate in the books 29260, was precisely reduced to the aforementioned sum of 20675, 20, because the capital sum of the censuses was deducted. It is not so easily believed that in the liquidation of the endowment of the benefice, no account was taken of this inaccuracy: and even if this is the case, the benefice should not be held responsible for this error, but rather the patron, and therefore his heirs, namely, the Religious Fathers of the Piarist Schools. Another difficulty raised by the religious is

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that the Rector of the benefice spontaneously accepted an annual pension of 260. But the reply is obvious. The Rector of the benefice received this sum...

[*Latin ed. p. 555*]

FESULANA 555: "The matter was brought before the courts in order to avoid litigation and to salvage something through a settlement; it is clear from his own letter that he accepted the assigned pension following an exhortation from ecclesiastical authority. After refuting other objections of lesser importance, especially concerning the alleged decrease in the value of the house due to the current economic crisis, the Advocate added that the Bishop of Fiesole is willing to allow another expert to examine the property, provided that he reserves the right to nominate one of the two experts to be chosen. After both sides had argued these points, the following questions were raised for clarification:

I. Whether and how the Religious Fathers of the Piarist Schools must restore the endowment of Saint Donatus, or the fund constituting the endowment, to the Bishop of Fiesole, or what its value is in this case.

II. Whether and how, together with the restoration of the property, the Religious Fathers of the Piarist Schools must also return the sum of money received as profit during their possession of the property in this case.

III. And, with regard to the second question, whether and how, when the aforementioned Religious Fathers restore the property, they have the right to recover the sum paid by them to their predecessor for the redemption of the endowment in this case.

RESOLUTION. On March 28, 1898, the Sacred Congregation of Bishops and Regular Canons, after carefully considering all the arguments presented by both sides, responded: Regarding questions I, II, and III: To the Piarist Schools, in the amount of 6202.56, which were expenses incurred in reclaiming the beneficial endowment from the hands of the State, the house which constituted said endowment shall be ceded to the Bishop of Fiesole, with the power granted to him to sell the house, but with the condition that the price received from the sale, after deducting the aforementioned sum, be carefully and prudently invested for the benefit of the endowment of Saint Donatus."

[*Latin ed. p. 556*]

356 ROME, EXPENSES. On March 18, 1898. Since the Vicar of the City had decreed the temporary administration of the new parish of Saint Mary of Providence in the village of Testacelo to be entrusted to the Congregation of Regular Clerics of the Theatins, and after the presentation of the Superior of this Congregation, the following was submitted to the Secretary of the aforementioned Vicar of the City on January 16, 1893: the resignation of Reverend Father Cocci as Parish Economus. However, to the new Econo-

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mus, a full and proper allowance of 200 monthly livres was not granted, but only 100 livres per month, and in addition, a government pension of 600 livres, which Father Cocci, as a religious, received from the state. The remaining 100 livres of the allowance were intended for the payment of outstanding debts; after these debts were paid, from January 1, 1896, the Vicariate began to pay the full allowance of 200 monthly livres to the Reverend General of the Theatins, but Father Cocci was obliged to remain content with the original sum or pension that had been established for him. In 1897, in the month of May, Father Cocci, having left the administration of the parish, was sent by his General Superior to a new religious house, to be founded in the town of Carpino. However, in the following month, he petitioned and obtained from the Holy See a transfer to another religious order, namely, to the Congregation of Regular Minor Clerics. Having obtained this, he requested to be indemnified by the General Superior of the Theatins in the sum of 1960 livres, 85 centesimi, for expenses which he claimed to have incurred from his own resources in the management of the aforementioned parish. The Reverend General, upon appeal to the Sacred Congregation of Bishops and Regulars, in the interest of peace, considered Father Cocci's request to be partially admissible, namely, for the sum of 484 livres, 50 centesimi; but later, in a new letter to the same Sacred Congregation, this concession was withdrawn.

COMPENDIUM OF THE FACTS.

[*Latin ed. p. 557*]

ROME, 557, remitting the decision of the controversy to the supreme judgment of the Holy Congregation in every part. A Synopsis of the Dispute: DEFENSE of the Reverend Father General of the Theatines. The Reverend Father General reasons as follows: When the administration of the parish was entrusted to Father Cocci, a suitable sum was in the hands of the Secretary of the Eminent Vicar of the City, and this sum was used to pay off debts. Therefore, when Father Cocci was appointed, a certain contract, in the French style of "forfait," was made with him, namely, the administration of the parish was given to him with a monthly allowance of one hundred livres, a government pension of 600 livres*, together with free masses and other parochial expenses. At the beginning of January, in the year 1896, after the debts were paid, the Reverend Father General received the entire sum of two hundred livres, but one hundred livres per month were retained from him, namely, fifty livres for the government pension received by Father Cocci, which belonged to the Community of Saint Andrew, commonly known as "Valle," and fifty livres for expenses incurred for the parish building and other items. Father Cocci repeatedly requested that the entire sum be paid to him, but the Reverend Father General was unable to grant his requests; indeed, since he had invited

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Father Cocci on several occasions to render accounts of the parish administration, in accordance with the sacred canons and the Constitutions of his Congregation, Father Cocci always refused, and furthermore, he presented to the last Holy Congregation of Bishops and Regulars a memorandum of expenses, in which he claimed that his debt to the Theatine Congregation amounted to the sum of 1960.85 livres. This memorandum of debt, continues the Reverend Father General of the Theatines, cannot be admitted in any way. 1°. Because Father Cocci, when he was sent to establish a new religious house in the town of Carpino, declared that he renounced any claim to the repayment of any debt, and this can be proven, if necessary, by the oath of Father Cocci. 2°. This memorandum was not drawn up from the code or register of the regular order, but rather was hastily compiled from memories recalled by Father Cocci, and the expenses were incurred without any prior authorization.

[*Latin ed. p. 558*]

558 ROMANA 3°. This is contrary to the terms of the agreement under which the administration of the parish was entrusted to him. 4°. And furthermore, if the property of a Religious Order erected into a prelature passes to the prelature, then all the more so should the property of a Religious who transfers to another religious order, or to another Regular Congregation, remain with him. It cannot be argued, from the fact that the Superior General declared in a letter to the Sacred Congregation of Bishops and Regulars, dated August 7, 1897, that he was granting Father Cocci a remission of the sum of 484.50, that the Superior General, he adds, acknowledged the validity of the debt. For he states that he did so only out of a desire for concord, and because he could not otherwise resolve the matter, therefore he submitted the case to the supreme judgment of the Holy See. Furthermore, the same Superior General notes that the remaining sum was transferred to the benefit of the Novitiate, and that Father Cocci was never considered to be a true parish priest, because he never wished to submit himself to examination in the Vicariate. And he concludes his defense, explaining the reason why, although a debtor, he was compelled to appeal to the Supreme Tribunal, namely, to prevent Father Cocci from having access to the secular tribunals to which he threatened to turn, according to his own declaration to a certain Mengoli.

REASONS PRESENTED BY THE FORMER CURATE, FATHER COCCI. On the other hand, here, in the allegation printed in type, his rights are defended in this way. He states that the Superior General lacks the right to take legal action, because this belongs to the creditor, and not to the debtor, to whom only the right of exception is reserved; however, Father Cocci states that he does not intend to insist on this concept in order to avoid a decision on the matter, and therefore he maintains that the reimbursement of his credit, or of the expenses which he incurred in exercising the

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parish ministry for the years 1894-97, is certain and evident. In truth, Father Cocci observes, the annual sum of 3000 livres was assigned to the parish of Divine Providence as a dowry; there is no provision for building or for any sodality. Between the curate and the ecclesiastical authority, there existed a contract of the type "do ut facias": hence, the expenses which were intended for the maintenance of the Rector of the Church were in no way withheld by the Superior General.

[*Latin ed. p. 559*]

ROME 559 could have been partially diverted to another purpose, even if that purpose was religious. The parish had indeed been entrusted to the Congregation of Regular Clerics of the Theatines, not to meet the Congregation's needs, but rather so that a more elaborate and appropriate external worship could be carried out, and so that the pastoral ministry of the parish could yield greater benefits. Therefore, if Father Cocci was unable to meet the needs of the parish and the necessary expenses of worship with the small sum of money allocated, it is just that Father General should reimburse him for the expenses he incurred, since Father General retained a portion that was intended for another purpose. Father General had recourse to the form of a forfeiture contract to avoid this obligation. But Father Cocci denies the existence of this contract, and even if it existed, he says that it could not have had any legal effect, because 1°. the subject matter was incapable of such a form of contract; 2°. because at that time, the alleged rendering of accounts for expenses could not be reconciled, and much less could the lack of a license to carry out the expenses be accepted. However, Father Cocci adds that this requirement of a license was not legally imposed by Father General. From a rescript of the Holy See of March 24, 1876, Father Cocci was deemed capable of possessing an ecclesiastical benefice, and from another rescript of April 13, 1883, he had the right to dispose of the paternal inheritance. Therefore, he could spend from his own resources on the pastoral ministry of the parish without the license of his General Superior. Moreover, it cannot be maintained that Father Cocci was a removable administrator of the parish at the will of Father General, because, besides the fact that at that time a ridiculous letter from the Secretary of the Eminent Vicar of the Urban Prefecture was sent, in which he was renounced as the Economus Curatus, such a hypothesis could not be denied, and that there existed between him and Father General a kind of contract that created an obligation between the parties: therefore, Father Cocci, as administrator of the parish, should be indemnified by the other party for the expenses incurred in this business. Finally, Father Cocci refutes the theory invoked by the opposing side.

[*Latin ed. p. 560*]

560 In ROMA, concerning the transfer of property belonging to a Reli-

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gious from one institute to another, legitimately occurring. He, adhering to the doctrine of Cardinal De Luca, as stated in Reg. 39 § 16, 17, distinguishes two categories of goods in a Religious: namely, those acquired with a view to the religious life and through personal effort, and those which come to the Religious after profession by inheritance or donation. The former belong to the institute from which he departs, while the latter pass to the institute to which the Religious transfers. This theory, or doctrine, has also been confirmed by decisions of the Sacred Roman Rota, namely, in decisions 136, 109, 155, paragraph 2, recent. However, Father Cocci states that the sum which he expended from his own resources in the exercise of his pastoral duties for the years 1894-97, came to him solely from the revenues of his ecclesiastical benefice and from a paternal inheritance, administered with the permission of the Holy See. It is true that he held the office of Secretary to the Reverend Commissary of War, but the proceeds from such an office scarcely amounted to 200 livres. Furthermore, the permission granted by the Reverend General to receive alms (a permission which was later revoked) amounted to 25 livres per month for 41 months, which in reality was almost lost, since Father Cocci received only 260 livres under this title, according to a note presented by him, which, if not taken from the regular code of receipts and expenditures, should be repeated from the records of the parish of Divine Providence, which did not have a regular registry: this was sufficient to cause a note to be drawn up by the Reasoner, a person attached to the Reverend General, regarding the matters communicated by Father Cocci. This is the sum of the reasons presented by the parties to clarify the following doubts: Whether the Reverend Father Joseph Cocci, a Cleric Regular Minor, and now Parish Priest of Saint Mary of Divine Providence in the City, is indebted to the Reverend General Cleric Regular of the Theatines, Father Francis Ragonesi, for expenses incurred in the aforementioned parish during the years 1894, 1895, 1896, and 1897, in this case.

[*Latin ed. p. 561*]

ROME 561 And inasmuch as Affirmative: II. In which matter there is a question of restoration in the case. RESOLUTION. On March 18, 1898. The Holy Congregation of Bishops and Regular Canons, after mature discussion, responded. - Regarding I, it pleases us that there be concord. FROM THE HOLY CONGREGATION OF THE SACRED ROMAN AND UNIVERSAL INQUISITION, a doubt concerning the effects of irregularity, arising from heresy, regarding the profession and prelatures of religious. The Vicar and General Procurator of the Ministers of the Sick, humbly prostrate before the Holy Foot, presents to the Holy Congregation as follows: that from some Provincials of his Order, various doubts have been raised concerning the acceptance, profession, ordination, and election to prelatures of heretics and their children and grandchildren, who are converted and aspiring to

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the religious state. And since these doubts are not merely theoretical, but concern practice and are often the cause of anxieties of conscience, especially in the countries of Germany and the North; therefore, the speaker humbly implores the Holy Congregation to resolve the following doubts, namely: I. Whether being born in heresy, or having parents, uncles, brothers, or cousins who are heretics, or who are married to heretics, is, by common law, an impediment that excludes one from religious profession? II. Whether it is correct to say that, due to the heresy of others, only those who have a heretical grandfather, or father, or mother, incur the irregularity? III. Whether one may follow the doctrine of those who teach that this irregularity does not occur in Germany, because there, relatives do not bring infamy? And whether this doctrine can be extended to all those regions where the dominant religion is heterodox or Protestant? IV. Whether those who have been legitimately dispensed from the irregularity with respect to Holy Orders, can, by reason of their religious profession, be promoted to the prelatures of the Order; or whether... (The text is incomplete.)

[*Latin ed. p. 562*]

562 FROM THE SUPREME SACRED INQUISITION: Whether those [religious] can be authorized by their Superiors to do so, when these Superiors, by an ancient concession directly granted and subsequent to the Council of Trent, have the power "to absolve, by Apostolic authority, in the forum of conscience alone, from any irregularity whatsoever, except for voluntary homicide, blasphemy, and the mutilation of members, and also to grant dispensations with them, as well as with rehabilitation, and the removal of incapacity and the stain of infamy?" See *J. C.*, vol. V, page 4, February 3, 1898. In the General Congregation of the Sacred Roman and Universal Inquisition, held by the Most Eminent and Reverend Cardinals, General Inquisitors for the matters of the Faith, after the aforementioned doubts had been proposed, and after the vote of the Most Reverend Consultors had been heard, the aforementioned Most Eminent and Reverend Lords were ordered to respond as follows: To the first question: Negatively, saving the constitutions proper to any Religious Family. To the second and third questions: Let the Decree of December 4, 1890, be given. That is to say: The children of heretics, who persist in heresy or who have died, are irregular to the first degree through the paternal line, and only to the first degree through the maternal line, even in Germany and in other places about which inquiry is made; and therefore they require a dispensation in order to be promoted to Tonsure and to the Orders. To the fourth question: As has been explained, negatively. On the following day, and on the feast day, after a report had been made concerning the aforementioned matters to His Holiness, Pope Leo XIII, in the usual audience granted to the Reverend Father, the Assessor of the Sacred Office, His Holiness approved the resolution of the Fathers. I. Canon Mancini, Secretary of the Sacred

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Congregation and Universal Inquisition.

[*Latin ed. p. 563*]

565 FROM THE HOLY CONGREGATION FOR INDULGENCES, by a Motu Proprio of the Most Holy Lord Pope Leo XIII, concerning the matters to be handled by the Holy Congregation for Indulgences. The administration of the Christian commonwealth, being so widely extended and so laborious, absolutely required that wise and serious men should always be present to the Roman Pontiff, with whom it would be fitting to share counsel and the daily burden of affairs. Hence, the Most Holy Roman Church has established the Most Wise Councils of Cardinals, which are called the Roman Congregations; and it is their duty to judge in certain cases, to give answers according to law, and to decide upon many other matters, to approve and to decide upon those things which their authority, by law and custom, requires to be approved and decided. However, in accordance with reason and the natural order of things, power has been given to them, not indiscriminately to all, but to each in their own sphere, and a particular type of work has been assigned to each for the expeditious handling of matters. This, indeed, would have resulted in great confusion of law and a lack of clarity, and the hope of the greatest benefits, which the Roman Congregations have brought and continue to bring to the Christian name, would have been frustrated from the very beginning, had it not been for the foresight of Our Predecessors. It is, therefore, Our duty to maintain the natural order and balance in these matters, ensuring that the power of each is contained within its proper limits, and to correct anything that may, by chance, prove unsuitable over time. When We turned Our attention to the Sacred Council, whose duty it is to examine and decide upon matters concerning Indulgences and the Relics of the Saints, We saw that it was necessary to assign it a certain duty in accordance with Our foresight. Indeed, Our Predecessor, Clement IX, instituted this by a Motu Proprio issued on the 6th of July, in the year 1669, and carefully prescribed the matters that were to be handled by it, with these words: "With the power to resolve any difficulty or doubt arising concerning the Relics of the Saints, or concerning Indulgences, which does not pertain to the dogma of the faith, and to consult with Us and with the Roman Pontiff for the time being concerning more serious and difficult matters. And if any abuses should occur in these matters, to correct and remedy them, without any formal judicial process. Also, to prohibit the printing of false, apocryphal, and indiscreet Indulgences, to recognize and examine those that have been printed."

[*Latin ed. p. 564*]

564 FROM St. Gregory concerning indulgences, and where it has been presented to Us, or to the Roman Pontiff for the time being, for rejection... also for the renewed recognition and examination of newly discovered

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relics... and that all things be carried out piously, holily, and incorruptly." But to these, a further faculty was added by subsequent concessions of the Pontiffs, namely, the granting of the very benefits of the holy indulgences, with the appended clause, valid for the present without any Brief. But since the frequency of these decrees had increased beyond measure, and the same matters were being addressed at the same time by the Curia through pontifical officials, a certain abnormal and deplorable order of things resulted. Our predecessor, Pope Pius IX, considered it necessary to address this inconvenience in due time, and, having issued a decree (1) to that effect, forbade the Congregation entrusted with matters concerning indulgences and sacred relics from exceeding the limits of the Clementine Constitution, and deprived it of the faculty of granting indulgences. "We, by this present Motu Proprio, and with certain knowledge and mature deliberation, decree that the aforementioned Congregation shall indeed retain the questions and discussions that may arise concerning indulgences or relics, and shall also carry out and expedite all other matters pertaining to the duties of its institution, as provided for in the Motu Proprio issued by our predecessor, Clement IX, on July 6, 1669; but it shall entirely abstain from issuing those acts that pertain to the granting of indulgences." However, the force of this decree gradually diminished, and the very faculty that had been taken away was restored: so that, in fact, a number of decrees are issued with the same clause, as we have mentioned above, no less than before. Since, as we learned from the testimony of many, this disturbance of the proper order and the renewal of old inconveniences were plainly occurring, we entrusted the matter to certain selected Cardinals of the Holy Roman Church, instructing them to carefully consider the cause and to clearly indicate what remedy seemed necessary. Therefore, having learned their opinion, and in order that each may fulfill its duties fully, We decree by Motu Proprio and with certain knowledge: I. That the rights established by Clement remain intact for the Congregation entrusted with matters concerning indulgences and sacred relics; and We confirm, and, if necessary, grant anew all the faculties listed in the syllabus attached to these letters. (1) By Motu Proprio of January 2, 1855.

[*Latin ed. p. 565*]

FROM THE SACRED DECREES ON INDULGENCES 565 II. We wish and decree that all other concessions and repetitions of indulgences, privileges of altars, faculties of blessing, and similar matters pertain exclusively to Our Secretariate. III. In like manner, We decree that the faculties granted to the Congregation, of which We are speaking, are to be its own and proper faculties, so that they cannot be common to any other, neither to the Congregation nor to the Secretariate. Given in Rome, at St. Peter's, on the thirty-first day of October, in the twenty-fifth year of Our Pontificate. SYLLABUS:

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The faculties which Our Most Holy Lord Leo XIII, Pope, confirms and, as far as necessary, grants entirely to the Holy Congregation for Indulgences and Sacred Relics, according to N. i of Our own initiative, dated October 30, 1887, concerning the Christian Republic. 1. The faculty of interpreting Rescripts concerning Indulgences and Sacred Relics, even those signed by the Supreme Pontiff himself. 2. The power to resolve questions and doubts of lesser importance, which can so easily be obscured, that it is not necessary to discuss them in the Congregation of the Most Eminent Fathers. 3. The power to approve Summaries of Indulgences. 4. The power to remedy any defects of any kind that may have occurred in the erection of Confraternities, pious Unions, etc., or even in their aggregation to Archiconfraternities, Primaries, Primo-primaries, etc. 5. The power to remedy any defects whatsoever that may occur concerning the admission of the Christian faithful to the Third Orders, to Confraternities, Congregations, pious Unions, etc. Also, defects in the blessing and distribution of scapulars, in the blessing of Rosaries, crowns, etc., in the erection of Stations of the Way of the Cross and of the Sorrowful Mother. 6. The power to grant dispensations regarding the required distance for the erection of Confraternities, provided, however, that the execution of the Rescript is deferred to the prudent judgment of the Ordinary. Also, to grant dispensations concerning...

[*Latin ed. p. 566*]

566 FROM the decrees concerning indulgences, concerning the distances between churches, which are usually specified in the decrees of concession for certain indulgences. 7. Concerning the transfer of indulgences by the favor of religious, when they migrate from one monastery to another, or from one house to another, due to circumstances. 8. Concerning granting, as it may be necessary, that the indulgences, by which churches of regular canons enjoy, may continue to be in effect after the expulsion or violent suppression of their convents; this power extends to cases of both past and future suppression of convents; extensively also to churches or religious houses, or of any congregation or institute. 9. Concerning granting that students of regular orders, and also of congregations or institutes of both sexes, may enjoy and avail themselves of the indulgences and graces by which they enjoyed in their respective churches, while they live a common life in another house, in which they legitimately have a chapel, public or private. 10. Concerning transferring from one day or days to another day or days, already granted indulgences; except for the Indulgence of the *Porziuncola* and other plenary indulgences, granted as often as possible. 11. Concerning transferring to another church or to another public chapel, indulgences granted to a church or to a public chapel. 12. Concerning granting to dioceses, both within and outside of *Italy*, the privilege that the faithful may gain indulgences, for which sacramental confession is required, who are accustomed to perform sacramental confession within

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two weeks. However, this privilege shall not be granted unless expressly requested by the Ordinary of the diocese, and only due to a lack of confessors. 13. Concerning changing the conditions, or the pious exercises prescribed for the acquisition of indulgences, into other pious works entirely or almost equivalent; except always for plenary indulgences as often as possible, and also except for the conditions of sacramental confession and Holy Communion whenever they are required. 14. Concerning renewing or prolonging, for religious, who are truly poor, the indulgences already granted to them, even if they may have delayed requesting the renewal or prolongation.

[*Latin ed. p. 567*]

567 FROM THE HOLY CONGREGATION FOR RITES: A doubt concerning the decree by which it is prescribed that all priests must conform to the calendar of the church in which the Mass is celebrated. (I). According to the decree of the Sacred Congregation of Rites of December 9, 1895, all priests, whether secular or regular, who celebrate Mass in a foreign church or public oratory, must entirely conform to that church or oratory. The aforementioned Sacred Congregation inquired: whether priests of a foreign diocese are also obligated to recite the prayer prescribed by the local bishop where they celebrate, or rather, are they free from this prescribed prayer? And the Sacred Congregation itself, after considering the report of the undersigned Secretary, and after a careful vote of the Liturgical Commission, decided that the proposed doubt should be answered as follows: Affirmative to the first part; Negative to the second. And thus it decreed. March 5, 1898. CAMILLUS CARD. MAZZELLA & R. C. Prefect. L. S. DIOMEDES PANICI S. R. C. Secretary. NEAPLES. Concerning the beatification and canonization of the Venerable Servant of God, Ignatius Lennaco, a secular priest in the archdiocese of Naples. The wonderful and merciful God opportunely chooses and sends his faithful servants, blessing them with his own blessings in Christ, the heir of all things, through whose merits and grace, aided, they shine forth as an example and a safeguard of virtue for all states of men. In our times, which are not dissimilar, Italy, and especially the Neapolitan region, has seen many such servants of God, and among them, it joyfully commemorates the Servant of God, Ignatius Lennaco, a secular priest. He was born on April 30, 1752, in the city of Turri Annuntiata, in the archdiocese of Naples. (1) This decree is reported in Volume XXVIII, page 438.

[*Latin ed. p. 568*]

568 ACCORDING TO the records, he was born on that day, and the following day in the parish church of the Holy Spirit, he was regenerated by baptism. The good parents, Nicholas and Cecilia, who were raising the Christian boy, Salvatore, found in him a gentle and docile nature. Even in his early years, he showed signs of a religious vocation, by erecting small

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altars at home, performing daily acts of piety, and preparing for the annual religious festivals. He showed devotion to the Most Blessed Virgin, both through the Rosary and through fasting on Saturdays. Obedient to his parents, if he received any money as a reward, either from them or from others, he, unlike other boys and adolescents, would spend it on the worship of God and for the relief of the poor; and he would support the priests who offered Masses for the souls of the departed. Ignatius, who loved his home, the church, and the school, appeared as a young man not to have the appearance of a child, but to have taken on the form of a man. It so happened that he was deemed worthy of the clerical state and attire, with the unanimous consent of the clergy and the people. Due to his progress in studies and in Christian instruction, he was admitted to the Seminary of Urban in Naples, holding a position free of charge. From the records of the proceedings, it is clear that Ignatius had fully achieved the particular goal that the Most Holy Council of Trent had set for the students, namely, to be a hope for the Church. His piety, modesty, obedience, and eagerness to learn letters and knowledge were noted by the Rector himself, and were an example to the other clerics. Although he had the best testimony to be promoted more quickly to the sacred orders, he nevertheless preferred to observe the time prescribed for each sacred order, and showed himself averse to obtaining dispensations. Even as a young man, and barely a deacon, he was chosen to teach the humanities in the aforementioned Seminary, and later, having renounced the position of teacher of the Hebrew language, he taught it with great merit until the end of his life. Having been raised to the dignity of the priesthood, he worked daily and devotedly in the sacred ministry, diligently attending to the preaching of the Word of God, and with equal diligence and discretion, he received the confessions of the faithful, especially following the teachings of St. Alphonsus de Liguori. He exercised this sacred ministry both in Naples, especially in the Urban Seminary, where he served as spiritual director, and also in the city of Torre Annunziata, at the church of the Congregation of the Most Holy Rosary and in the parish of the Holy Spirit. He was a pious teacher of the Rosary confraternity.

[*Latin ed. p. 569*]

From the Sacred Rites, number 569, he poured forth his fervent love for his fellow citizens, embracing the Sacrament of the Eucharist and the Sorrowful Mother of God. From there, he instituted a three-day exposition of the Blessed Eucharist during the Major Week, from Palm Sunday to the third feria, and a pious exercise on the feria of Holy Saturday to commemorate the unspeakable sorrows of the Blessed Virgin Mary; and those two works of his, redolent of wisdom and piety, the first concerning the manner and reason for hearing Mass, the other concerning the Sorrowful Virgin Mother. He loved and promoted the beauty of the house

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of God, even collecting alms from the faithful for this purpose; moreover, to ensure that the sacred functions were properly performed, he often directed the ecclesiastical singing in which he was skilled. Through these and other works, intent on the glory of God and the benefit of his neighbors, he was broken by study and labor; but with a strong and patient spirit, while afflicted by a grievous and incurable illness, and strengthened by the sacraments of the Church, he died on the day he had foretold, December 22, in the year 1828. The body of the Servant of God was first exposed in the chapel of the Seminary of Naples, and then taken to his native city, where it remained unburied for more than three days, with citizens tearing off pieces of his clothing or hair for the sake of devotion. After the funeral rites were properly performed, he was buried in the cemetery of the Congregation of the Most Holy Rosary, and after eighteen years, with the approval of ecclesiastical authority, he was transferred to the shrine of the same congregation, and buried beneath the floor. Meanwhile, the fame of sanctity which the Servant of God had acquired during his life, increased even more after his death; and concerning this, a regular process was duly conducted in the ecclesiastical court of Naples, already presented to the Sacred Congregation of Rites, exhibited and legitimately opened. Hence, at the request of the Most Reverend Lord Cosimo Stornatolo, the promoter of this cause, the Most Holy Pope Leo XIII, through decrees of July 8, 1891, March 13, 1894, and March 29, 1895, approved the judgment of the Sacred Council concerning the revision of the writings of the Servant of God, and granted permission to propose, even before the lapse of ten years, without the intervention and vote of Consultors in the Ordinary Congregation, the question of assigning the commission for the introduction of the same cause. Wherefore, at the insistence of the aforementioned promoter, and with the attention of the postulatory letters of several Most Reverend Cardinals, several Most Reverend prelates, as well as the Most Reverend Chapter of the Metropolitan Church of Naples, together with the clergy and people of the city of Torre Annunziata, especially from the members of the Most Holy Rosary.

[*Latin ed. p. 570*]

570 FROM the Sacred Congregation of Rites, His Eminence and Reverend Lord Cardinal Vincent Vannutelli, himself the Proponent or Relator of this cause, in the Ordinary Sessions, on the aforementioned date, convened at the Vatican, proposed the following question for discussion: "Should a Commission be appointed for the introduction of the cause, in this case and to the effect of which we are speaking?" And the Sacred Congregation of Rites, after the report of the Eminent Proponent, having also heard the Reverend Father John Baptist Lugari, Promoter of the Holy Faith, and after all due deliberations, decided to respond: "Affirmatively, that is, a Commission should be appointed, if it pleases His Holiness."

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December 7, 1897. All of which having been reported to His Holiness, our Lord Pope Leo XIII, by the undersigned Cardinal Prefect of the Sacred Congregation of Rites, His Holiness, having approved the Decree of the aforementioned Sacred Congregation, deigned to sign the Commission for the Introduction of the Cause of the Venerable Servant of God Ignatius Lennaco, on the eleventh day of the same month and year. CAMILLUS CARD. MAZZELLA, Prefect of the Sacred Congregation of Rites. L. * S. DIOMEDES PANICI, Secretary of the Sacred Congregation of Rites. TOLOSANA. Concerning the worship rendered to the Servant of God Sabinus, Bishop and Martyr, and patron of certain parishes, from time immemorial. During that period in which the Saracens, led by Abderaman, were devastating Aquitaine, namely from the year 728 to the year 732, it is believed that Sabinus, the Bishop, gave his life for Christ. Very little remains of the memory of his birth and his deeds; however, many monuments have been collected, both ancient and more recent, firmly established by constant tradition, which demonstrate the episcopal dignity of the Servant of God, his pontifical mission, his glorious martyrdom, his reputation for holiness, and, above all, the public ecclesiastical worship rendered to him from his death to the present time. From these things, it is clear that Sabinus is entirely different from others of the same name, whether from Lavetiano, or Poitiers, or Spoleto, or others whose praises are read in the Roman Martyrology; he was an Italian Bishop, adorned with apostolic virtues, elected and sent by the Roman Pontiff to Spain and France, to preach to the Saracens in those lands.

[*Latin ed. p. 571*]

Having proclaimed the faith of Christ to those dwelling in those places, he was driven out by the Saracens, among whom he diligently fulfilled his apostolic office for the great benefit of souls. He arrived at Scande-Caprae, near Utrecht, by way of the river Péquilhan, and there, in the very first conflict for the sake of religion, he was murdered by the pagans, to the detriment of the faith. It is recorded that those places were immediately dedicated in the name of Saint Sabinus, and also the place of his martyrdom. The body of the Servant of God was taken up by those who accompanied him and secretly laid to rest in a marble tomb, until, when the Saracens were driven out of that region, it was miraculously discovered. For a fugitive bull, with bells attached to its neck, was found, moaning and trampling the ground where the same body lay at rest. At that place, a small chapel was immediately built in honor of the Servant of God, which was later replaced by a larger one, along with a building for priests who ministered in the sacred chapel. Documents dating back to a time before the reign of Urban [Pope Urban VIII] mention the name of Saint Sabinus in connection with the territory, the chapel, or church, and a confraternity, and also state that his feast day should be celebrated annually on June 10,

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with markets held on that day for greater festivity and public attendance, and with offerings from the faithful for the maintenance of the cult of Saint Sabinus through the ministry of priests. More recent documents show indulgences granted by His Holiness Pope Paul V to the confraternity and other visitors of the chapel of the same Saint, and a solemn supplication, made as a votive offering for the sake of giving thanks, to be performed each year in the city of Cazères, in honor of the Servant of God, for the liberation of all classes of citizens from the contagious disease, just as was done for Saint Roch and Saint Francis of Assisi. The aforementioned chapel or church, dedicated to Saint Sabinus and adorned with his relics, was desecrated and destroyed by wicked men during the French Revolution in the year 1792, but these sacred relics were hidden away, and in the year 1796, they were unearthed and found in a small chest made of oak, carefully preserved and sealed, with proper recognition made in the year 1780 by Father Raymond. These relics were immediately entrusted to the care of a Christian family, and seven years later, at the request of the inhabitants of Scande-Caprae, and by order and authority of the Archbishop of Toulouse, they were transferred on August 15th, on the feast of the Assumption of the Blessed Virgin Mary, from a private home to the parish church. There, near the main altar, they were placed for the veneration of the faithful and remained there for fifty years.

[*Latin ed. p. 572*]

572. ACCORDING TO THE RITE. For in the year 1853, the church of Saint Sabinus was rebuilt with the piety and expense of the faithful, and was duly blessed, receiving the festive solemnity of the relics; the clergy and the people were present; and in the morning, after the sacred rites and Communion were distributed to several hundred faithful, in the afternoon, Vespers were celebrated, and a sermon was given in praise of the Servant of God. This aforementioned cult, rendered to Bishop and Martyr Sabinus, which had been suppressed in the diocese of Convenarum in the year 1801, had also been extended to other dioceses, with the consent of the Bishops, but had not yet been recognized and approved by the Apostolic See through a decree of the Sacred Congregation of Rites. However, this was desired by all who venerated Saint Sabinus, and, gladly complying, the Most Reverend Cardinal Florian Desprez, Archbishop of Tolosanus, through a delegated judge, after a regular inquiry, rendered a favorable judgment regarding this aforementioned cult of the Servant of God. The cause was then brought before the Sacred Congregation of Rites, with the insistence of the Most Reverend Father Vincent Ligiez, of the Order of Preachers, the Postulator of the cause, and also in the name of the present Most Reverend Archbishop of Tolosanus; and, considering the letters of petition from the Eminent Cardinal Archbishop of Burdigalensis and from several sacred prelates, the Most Eminent and Most Reverend Cardinal

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Caietan Aloisi Masella, Relator of the same cause, proposed the following question for discussion at the ordinary meeting of the Sacred Congregation of Rites, held on the indicated day at Vatican: "Whether the judgment of the delegated judge, rendered by the Most Eminent and Most Reverend Archbishop of Tolosanus, regarding the aforementioned cult rendered to the Servant of God from time immemorial, or regarding the exception from the decrees of Pope Urban VIII, should be confirmed in this case and for the purpose in question?" Furthermore, the Most Eminent Fathers, Prefects of the Sacred Congregation for the Preservation of Rites, after the report of the aforementioned proponent, having also heard the Reverend Father John Baptist Lugari, Promoter of the Holy Faith, and having carefully considered all things, judged it necessary to respond: Affirmative, that is, the judgment should be confirmed. On December 7, 1897. All of which was reported to His Holiness, our Most Holy Father Leo XIII, by the undersigned Cardinal, Prefect of the Sacred Congregation of Rites, and His Holiness approved and confirmed the decree of the aforementioned Sacred Congregation, on the eleventh day of the same month and year.

CAMILLUS CARD. MAZZELLA, Prefect of the S. R. C.

L.

S. DIOMEDES PANICI, Secretary of the S. R. C.

[*Latin ed. p. 573*]

575. SAGONEN. or ADJACENT. Concerning the Beatification and Canonization of the venerable Servant of God, Brother Bernardine of Calenzana, a priest of the Order of Friars Minor of the Holy Francis. ON A DOUBT: Whether it is established that the theological virtues of Faith, Hope, and Charity in God and in neighbor, and also the cardinal virtues of Prudence, Justice, Fortitude, and Temperance, along with those things annexed to them, were present in a heroic degree in the case and to the effect of which we are speaking? Virtue, the more it is removed from the eyes of men and from public view, the more brightly it shines with a pure light. In the year 1571, on the Ides of April, Bernardine was born in Calenzana, on the island of Girnea; whether his parents were wealthy or pious, it is rightly uncertain. Integrity of morals accompanied him from his tender years. This tempered his mind and soul with the most sacred laws of life, and followed him until the grave. He joined himself to his parents and teachers in obedience, and he did nothing that was contrary to their wishes or commands. He excelled among his equals in humility of spirit: modesty and obedience were an example to all. He was so devoted to piety that nothing surpassed him. He frequently attended Mass at the altar. He daily visited Christ, resplendent in the august Sacrament, eagerly fixed his eyes upon Him, and spoke to Him. In love, he had nothing but heavenly things, and he desired nothing more than solitude. And so that no blemish might lead his virginity to heaven more safely, he entered, against the will of his

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father, among the Franciscan brethren, who were called the Reformed! He was fifteen years old. Briefly, it became evident in Bernardine's virtues that he had reached the goal, as it seemed to all. He had constant communion with God, a perpetual study of prayer, the highest humility, and a singular penance. He was so devoted to remembering the sufferings of Christ that he could not restrain his tears, and he experienced ecstasies and raptures. He treated his companions and brethren with brotherly love. He was gracious to all, he deserved the obedience and companionship of all, he left no opportunity for helping anyone, and he was ready to help everyone. He established a school for students who were beginning to enter the arena of virtue, and who were imbued with the first precepts of a holier life, as their president and teacher; to them,

[*Latin ed. p. 574*]

574 Following the example of the Sacred Council of Trent, he was present at every meeting, offering his help and counsel. He so carefully attended to every detail of his duties that nothing was ever lacking. The charity of Bernardine extended beyond the confines of his monastery. He was deeply concerned for the common good, and rather than being confined to a single task, he devoted himself to meeting both the physical and spiritual needs of others. It is astonishing how many, through his influence, laid aside their hatreds, extinguished the seeds of discord, and eliminated the causes of strife. Even in the midst of his labors, he never neglected his spiritual life; and whenever he had a moment of leisure from the care of souls, he devoted himself to prayer, where he renewed his piety, refreshed his spirit, and prepared himself to continue sowing and cultivating the seeds of the Gospel. Indeed, the reputation of Bernardine grew so great that his name became synonymous with holiness. When, at the end of his life, he felt death approaching, he experienced such spiritual joy that he seemed to taste the delights of heaven. His funeral was attended not only by the townspeople, but also by large crowds from neighboring areas, who mourned his death and praised his virtues. And in order that his body might be preserved for the common veneration of the faithful, it was buried for three days. He exchanged his most holy life for immortality in the year 1673, and although he has departed, he still speaks to us through the shining examples of virtue that he left behind. Therefore, it is not surprising that the memory of the Venerable Bernardine has not perished with his death. On the contrary, because of the widespread fame of his holiness, the cause for his beatification and canonization was initiated in the Congregation of Sacred Rites. Following the decrees and constitutions of the Supreme Pontiffs that must be observed in such cases, a preparatory meeting was held on the nineteenth of September, 1883, in the house of Cardinal Thomas Mary Martinelli, who was then the promoter of the cause. This preparatory meeting was followed by another, which was held on the ninth of August,

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1894, and which was convened in the Apostolic Palace at the Vatican. Finally, in a general meeting held there before His Holiness Pope Leo XIII, on the sixteenth of December of the preceding year, the Most Reverend Cardinal Isidore Ver-

[*Latin ed. p. 575*]

From the Sacred Congregation of Rites, number 575, the Bishop of Albano Laziale proposed the following question for discussion: Whether it is established that the Venerable Servant of God, Bernardine of Calenzana, in the heroic degree, in the case and to the effect under consideration, possessed the Theological Virtues of Faith, Hope, and Charity towards God and neighbor, as well as the Cardinal Virtues of Prudence, Justice, Temperance, and Fortitude, and their related virtues. The Cardinals and other Consultors, each in turn, gave their votes. However, the Most Blessed Pope postponed revealing his definitive judgment, desiring to seek more intensely the divine light from the Father of lights. Today, on the fourth Sunday after Epiphany, after having performed sacred and most devout ceremonies, he ordered that Cardinal Camillus Mazzella, Prefect of the Sacred Congregation, and Bishop Isidore Verga of Albano Laziale, Relator of the Cause, and the Reverend Father John Baptist Lugari, Promoter of the Faith, and myself, the undersigned Secretary, be summoned. In their presence, he solemnly declared: "It is established that the Venerable Servant of God, Bernardine of Calenzana, in the heroic degree, in the case and to the effect under consideration, possessed the Theological Virtues of Faith, Hope, and Charity towards God and neighbor, as well as the Cardinal Virtues of Prudence, Justice, Temperance, and Fortitude, and their related virtues." He ordered that this decree be made public and recorded in the acts of the Sacred Congregation on the third day before the Kalends of February, in the year 1898.

CAMILLUS CARD. MAZZELLA, Prefect of the Sacred Congregation.

L. S. DIOMEDES PANICI, Secretary of the Sacred Congregation.

BONONIAE. Concerning the beatification and canonization of the Venerable Servant of God, Bartholomew Mary Dalmonte, priest and founder of the Pious Work of Missions.

At the request of the Most Reverend Peter Crostarosa, Bishop of Urban, and the Postulator of the Cause of the Venerable Servant, Bartholomew M. Dalmonte, the Eminent and Most Reverend Lord Cardinal Luke M. Parocchi, Bishop of Porto and Santa Rufina, Relator of the same Cause, in a plenary session of the Ordinary Congregation of the Sacred Rites, held at the Vatican on the date indicated, and convened according to the special provisions of the Most Holy Pope Leo XIII, issued in the years 1878 and 1895, proposed the following question for discussion: "Whether it is established that the Apostolic Process, constructed with full authority in Bologna, concerning the fame of sanctity, virtues, and miracles in general,

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of the Venerable Servant of God, is valid and relevant in the case and to the effect under consideration?"

[*Latin ed. p. 576*]

576 FROM THE SACRED CONGREGATION FOR RITUALS: And the same Sacred Congregation, having carefully considered all matters, and having heard the Reverend Father John Baptist Lugari, Promoter of the Holy Faith, decided to respond: Affirmative, or it is established. March 22, 1898. Subsequently, a report on these matters was presented to His Most Holy Lord Leo XIII, Pope, by the undersigned Secretary, and His Holiness approved and confirmed the Decree of the aforementioned Sacred Congregation, on the 28th of the same month and year. C. CARD. L. >$i S. MAZZELLA, Bishop of Praenestinus, Prefect. DIOMEDES PANICI, Secretary. FROM THE SACRED APOSTOLIC PENITENTIARY: A DOUBT concerning the execution of a decree. Most Blessed Father, On March 30, 1897, John B... and Rosalia I N..., of the diocese of..., reported to the Apostolic Datary a decree of dispensation concerning consanguinity, specifically regarding the second degree of consanguinity in the first line, and the double fourth degree in the third line. The decree, as it was written, concerned the second degree of consanguinity in the first line, the fourth degree in the second line, and finally, also the fourth degree in the third line. However, the dispensation that was truly required concerned the second degree of consanguinity in the first line, the fourth degree in the second line, and finally, also the fourth degree in the third line. Since time was pressing and the error in the decree concerned an accidental matter, the Ordinary of... executed the decree, and the spouses were lawfully joined in the sight of the Church. Therefore, he asks: 1. Whether the decree was validly and lawfully executed? On February 1, 1895, when a certain Ordinary affirmed in a supplication that he was the Ordinary of Orense, while in truth he was the Ordinary of the place of domicile, the Sacred Penitentiary, when questioned, responded that the dispensation had been validly and lawfully granted, but that the error should be corrected. Therefore: 2. Whether the Ordinary of... should, in the present case, correct the error in the decree? And so on... The Sacred Penitentiary responds to the Ordinary of... concerning the aforementioned matters: Let the correction be made. Given at Rome, from the Sacred Penitentiary, on June 2, 1897. B. POMPILI, S. P., Corrector. V. Can. LUCCHETTI, S. P., Secretary.

[*Latin ed. p. 577*]

577 FROM THE CONSISTORY ACTS Concerning the Consistory held on March 24, 1898. His Holiness held a public consistory this morning in the Vatican Palace to bestow the red hat upon the Cardinals created and publicly announced on April 19, 1897: Martino de Herrera y de la Iglesia, Coullié, Labouré, and Sourrieu. After this, the following sees were

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proposed: The Archiepiscopal Church of Rossano, vacant, to be filled by the promotion of Reverend Father Donati Mariae Dell'Olio to the Metropolitan Church of Benevento, with the favor of Reverend Father Horatius Mazzella, titular Bishop of Cymae. The titular Archiepiscopal Church of Nicopolis, vacant, due to the death of the Most Reverend Alexander Grossi, the last Archbishop of that see, who died outside the Roman Curia, with the favor of Reverend Father Henricus Grazioli, already Bishop of Guastalla. The Cathedral Church of Avila, vacant, due to the death of the Most Reverend Iosephus Mariae Blanc et Baron, the last Bishop of that see, who died outside the Roman Curia, with the presentation of the Reverend Father Ioachimus Beltran et Asensio, a priest of the diocese of Carthage, to the Most Serene Queen Regent of the Catholic realm. The Metropolitan Church of Baren, vacant, due to the death of the Most Reverend Hernestus Mazzella, the last Archbishop of that see, who died outside the Roman Curia, with the favor of Reverend Father Iulius Vaccaro, titular Archbishop of Ancyra. The Metropolitan Church of Gorizia, or Gradisca, vacant, due to the death of the Most Reverend Aloysius Zorn, the last Archbishop of that see, who died outside the Roman Curia, with the favor of Reverend Father Iacobus Missia, Bishop of Labacensis. The Cathedral Church of Würzburg, vacant, due to the promotion of Reverend Father Franciscus Iosephus de Stein to the Metropolitan See of Munich and Freising, with the favor of Reverend Father Ferdinandus Schloer, a priest of the diocese of Würzburg. The Cathedral Church of Segovia, vacant, due to the translation of Reverend Father Iosephus Pozuelo et Herrera to the Cathedral See of Cordoba, with the favor of Reverend Father Iosephus Raimundus Quesada et Gascon, titular Bishop of Domitiopolis. The titular Episcopal Church of Ionopolis, under the Archbishop of Gangra, vacant, due to the death of the Most Reverend Iacobus Daddi, the last Bishop of that see, who died outside the Roman Curia, with the favor of Reverend Father Andreas Cassato, a priest of the archdiocese of Otranto: who was also appointed as an Auxiliary to the Most Reverend Caietanus Caporali, Archbishop of Otranto. The Cathedral Church of Caiata, or Calatin, vacant, due to the translation of Reverend Father Raphael Danise to the titular Episcopal Church of Zenopolis, with the favor of Reverend Father Felix De Siena, a priest of the diocese of Caserta. The Metropolitan Church of Toledo, to which is attached the title of Patriarch of the West Indies, vacant, due to the death of the Most Reverend Antolini, while still living, of the Most Holy Roman Church, Cardinal Monescillo et Viso, the last Archbishop and Patriarch, who died outside the Roman Curia, to which His Holiness transferred the Most Reverend and Most Noble Cyriacus Maria, with the title of Saint Peter in Monte Aureo, of the same Most Holy Roman Church.

[*Latin ed. p. 578*]

578 FROM THE CONSISTORY ACTS, the Cardinal Sancha and the Arch-

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bishop Hervas of Valentia were presented to the Most Serene Queen, Regent of the Catholic realm. The Metropolitan Sees of Tran and Bar, and also the united Sees, together with the Archiepiscopal Title of Nazareth, and the Episcopal See of Vigiliensi, to be perpetually administered by the Archbishop *in statu presenti* of Tran, were vacant, due to the promotion of the Reverend Father Dominic Marinangeli, of the Latin rite, to the Patriarchal See of Alexandria; favored by the Reverend Father Thomas De Stefano, Bishop of Ruben and Bituntin. The Metropolitan See of Friburg, in the Grand Duchy of Baden, was vacant, due to the death of the Most Reverend John Christian Roos, the last Archbishop of that See, who died outside the Roman court; favored by the Reverend Father George Ignatius Komp, Bishop of Fulda. The titular Episcopal See of Samosata was vacant, due to the translation of the Reverend Father Charles Gustav Walran to the Cathedral See of Tournay; favored by the Reverend Father Gerald Soubrier, Bishop of Oran. The titular Episcopal See of Traianopolis was certainly vacant, favored by the Reverend Father Henry Joseph Reed da Silva, already Bishop of Saint Thomas of Meliapor. The Cathedral See of Saint Peter, or Martiren, was vacant, due to the resignation of the Reverend Father Julian Francis Peter Carmené, freely and spontaneously carried out in the hands of His Holiness and admitted by the same, and the subsequent assignment of the Archiepiscopal Title of Hierapolis to him; favored by the Reverend Father Joseph Stephen Frederick Tanoux, of the Congregation of Saint Vincent de Paul, a priest of the diocese of Marseilles. The Patriarchal See of Antioch, of the Greek-Melkite nation, was vacant, due to the death of the Most Reverend Gregory Jussef, the last Patriarch of that See, who died outside the Roman court; favored by the Reverend Father Peter Geraigiry, Bishop of Caesarea. The titular Episcopal See of Proconnesus, under the Archbishop of Cyzicus, was vacant, due to the death of the Most Reverend Peter Mary Geniel, the last Bishop of that See, who died outside the Roman court; favored by the Reverend Father John Carli, a priest of the diocese of Vinlimilia. The Cathedral See of Eporedien, or Ivrea, was vacant, due to the promotion of the Reverend Father Augustine Richelmy to the Metropolitan See of Turin; favored by the Reverend Father Matthew Filipello, a priest of the archdiocese of Turin. The Cathedral Sees of Recineten and Lauretan, perpetually and canonically united, were vacant, due to the death of the Most Reverend Thomas Gallucci, the last Bishop of those Sees, who died outside the Roman court; favored by the Reverend Father William Giustini, a priest of Senigallia. The Cathedral See of Sarsinate was vacant, due to the death of the Most Reverend Henry Graziani, the last Bishop of that See, who died outside the Roman court; favored by the Reverend Father Dominic Riccardi, a priest of the diocese of Feretrana. The Cathedral See of Seguntin was vacant, due to the death of the Most Reverend Joseph Mary Caparros and Lopez, the last Bishop of that See, who died outside the Roman court; favored by the Reverend Father Thuribius Minquella and

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Arneco, of the Virgin of Mercy, Bishop of Portoricensis. The Cathedral Sees of Ruben and Bituntin, perpetually and canonically united, were vacant, due to the promotion of the Reverend Father Thomas De Stefano to the united Metropolitan Sees of Tran and Bar; favored by the Reverend Father Paschal Berardi, a priest of the diocese of Trivento. The Metropolitan See of Messana, to which the Archimandrite of the Most Holy Savior was attached by Apostolic Letters with the Fisherman's Ring, dated August 31, 1883, was vacant, due to the death of the Most Reverend Joseph, while still living, His Eminence Cardinal Guarino, the last Archbishop of that See, who died outside the Roman court; favored by the Reverend Father Lilterii d'Arrigo, a priest of Messana. The titular Archiepiscopal See of Hierapolis was vacant, due to the death of the Most Reverend.

[*Latin ed. p. 579*]

From the Consistorial Acts:

Charles Aslanian, the last Archbishop of that see, having died outside the Roman Curia, the titular church of Arsinoë is vacant. Reverend Father Julian Francis Peter Carmené, Bishop of St. Peter or Martinica, is transferred to the Cathedral See of the Holy Faith, with the favor of Reverend Father Charles Joseph Lewis Abel Hilbert, Bishop of Le Mans.

The Cathedral Church of Cordoba is vacant, due to the promotion of Reverend Father Sebastian Herrero and Espinosa de los Monteros to the Metropolitan See of Valencia, with the favor of Reverend Father Joseph Pozuelo and Herrero, Bishop of Segovia.

The Cathedral Church of Bovino is vacant, due to the transfer of Reverend Father Michael De Iorio to the Cathedral See of Stabia, or Castrum Maris, with the favor of Reverend Father Joseph Padula, a priest of the Diocese of Turia.

The Metropolitan Church of Valencia is vacant, due to the transfer of His Excellency and Reverend Lord Cyriacus Mary, of the Holy Roman Empire, holding the title of St. Peter in Monte Aureo, a Cardinal Priest, to the Metropolitan See of Toledo and the Patriarchate of the West Indies, with the favor of Reverend Father Sebastian Herrero and Espinosa de los Monteros, Bishop of Cordoba.

The Cathedral Church of Leghorn is vacant, due to the promotion of Reverend Father Leopold Franchi to the titular Archbishopric of Antioch in Pisidia, with the favor of Reverend Father Julius Matteoli, Bishop of Pescia.

The Cathedral Church of Pescia is vacant, due to the transfer of Reverend Father Julius Matteoli to the Cathedral See of Leghorn, with the favor of Reverend Father Donatus Velluti-Zali and the Dukes of St. Clement, Bishop of Oropesa.

The Metropolitan Church of Naples is vacant, due to the death of the Most Reverend Vincent Mary Sarnelli, the last Archbishop of that see, who

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died outside the Roman Curia, which the same Holiness intends to entrust to the Most Reverend and Reverend Lord Joseph, a Cardinal Priest holding the title of St. Xystus.

The titular church of Zenopolis, under the Archbishop of Seleucia, is vacant, due to the transfer of Reverend Father Francis Albini Symon to the Cathedral See of Płock, with the favor of Reverend Father Engelbert Vorsak, a priest of the Dioceses of Sirmium and Bosnia.

The titular Archbishopric of Donam is certainly vacant, with the favor of Reverend Father Henry Carfagnini, Bishop of Gallipoli.

The Cathedral Church of Alife is vacant, due to the transfer of Reverend Father Anthony Scotti to the titular church of Tiberiopolis, with the favor of Reverend Father Septimus Caracciolo and the Marquises of Petraevallis and the Princes of Torchiaroli and Ripa, a priest of Naples.

The titular church of Tiberiopolis is vacant, due to the transfer of Reverend Father Mariano Anthony Espinosa to the Cathedral See of La Plata, with the favor of Reverend Father Anthony Scolti, Bishop of Alife.

The Cathedral Church of Labacén is vacant, due to the promotion of Reverend Father James Missia to the Metropolitan See of Gorizia, or Gradisca, with the favor of Reverend Father Anthony Ieglié, titular Bishop of Siunia.

The Cathedral Church of Salta, in the Republic of Argentina in South America, is vacant, due to the transfer of Reverend Father Paul Padilla to the Cathedral See of Tucumán, with the favor of Reverend Father Matthias Linares, a priest of the Diocese of Salta.

The Cathedral Church of Paraná, in the Republic of Argentina in South America, is vacant, due to the death of the Most Reverend Joseph Gelabert, the last Bishop of that see, who died outside the Roman Curia, with the favor of Reverend Father Rodesindi de La Lastra, titular Bishop of Miletus.

[*Latin ed. p. 580*]

580. The Cathedral Church of Cartagena in the Republic of Colombia, in South America, is vacant, due to the death of the Most Reverend Eugene Biffi, the last Bishop of that See, who died outside of Rome, with the favor of the Reverend Father Peter Brioschi, a priest of the Archdiocese of Milan. The titular Archiepiscopal Church of Caesarea of Pontus is vacant, due to the succession of the Reverend Father Anthony Mary Buglione to the Metropolitan See of Compiegne, with the favor of the Reverend Father Justin Adami, a priest of the Diocese of Vasten. The Church of La Plata in the Republic of Argentina, in South America, which, by a Consistorial Decree entitled "Cum Muneris sit Apostolicae Sedis," promulgated on February 15, 1897 (regarding which an Apostolic Bull was issued), was raised to the status of a Cathedral and has been vacant since its original erection, with the favor of the Reverend Father Mariano Anthony Espinosa, the titular Bishop of Tiberiopolis. The Metropolitan Church of La Plata in the

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Bolivian territory of South America is vacant, due to the death of the Most Reverend Peter Joseph Caietani de la Llosa, the last Archbishop of that See, who died outside of Rome, with the favor of the Reverend Father Michael of the Holy Taborga, a priest of La Plata. The Cathedral Church of Stabia, or Castrum Maris, is vacant, due to the promotion of the Reverend Father Vincent Mary Sarnelli from the Order of the Jurists to the Metropolitan See of Naples, with the favor of the Reverend Father Michael De Iorio, the Bishop of Bovino. The Cathedral Church of Anglonensem-Tursiensem is vacant, due to the translation of the Reverend Father Seraphin Angelini to the Cathedral Church of Abelluven, with the favor of the Reverend Father Calmeli Pujia, a priest of the Diocese of Miletus. The Cathedral Church of Signin is vacant, due to the death of the Most Reverend Constantine Costa, the last Bishop of that See, who died outside of Rome, with the favor of the Reverend Father Pancratius Giorgi, a priest of the Diocese of Anagni. The Cathedral Church of Interamna is vacant, due to the promotion of the Reverend Father Anthony Bell to the titular Archiepiscopal Church of Chalcedon, with the favor of the Reverend Father Francis Bacchini, a priest of the Diocese of Rimini. The titular Episcopal Church of Amathe, under the Archbishop of Apamea, is vacant, due to the death of the Most Reverend Gerard Araldi, the last Bishop of that See, who died outside of Rome, with the favor of the Reverend Father Bartholomew Mirra, a priest of the Abbey of Saint Paul outside the walls. The Patriarchal Church of Alexandria, of the Latin Rite, is vacant, due to the death of the Most Reverend Paul Ballerini, the last Patriarch of that See, who died outside of Rome, with the favor of the Reverend Father Dominic Marinangeli, the Archbishop of Trani, Nazarene, and Barola. The Metropolitan Church of Benevento is vacant, due to the death of the Most Reverend Camillus, of the Sacred Roman Church, while still living, a priest and Cardinal of Sicily, the last Archbishop of that See, who died outside of Rome, with the favor of the Reverend Father Donatus Mary Dell'Olio, the Archbishop of Rossano. The Cathedral Churches of Savona and Nola are perpetually and canonically united and are vacant, due to the death of the Most Reverend Joseph Boraggini, the last Bishop of that See, who died outside of Rome, with the favor of the Reverend Father Joseph Scatti, a priest of the Archdiocese of Milan. The Cathedral Church of Quinquecclesia is vacant, due to the death of the Most Reverend Ferdinand Dulanszky, the last Bishop of that See, who died outside of Rome, with the favor of the Reverend Father Samuel Hetyey, a priest of the Diocese of Steinamanger. The Metropolitan Churches of Monaco and Fribourg are vacant, due to the death of the Most Reverend Anthony Thomas, the last Archbishop of that See, who died outside of Rome, with the favor of the Reverend Father Francis Joseph de Stein, the

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Bishop of Herbipölen.

[*Latin ed. p. 581*]

FROM THE CONSISTORY ACTS:

The Cathedral Church of Saint Thomas of Melapor, in the Orient, is vacant, due to the resignation of Reverend Father Henry Joseph Reed da Silva, with the favor of Reverend Father Anthony Joseph de Souza Barroso, titular Bishop of Himenia and Prelate of Mozambique.

The titular Episcopal Church of Castor, under the Archbishop of Achrida, is vacant, due to the death of the Reverend Monsignor Francis Gasparic, the last Bishop of that see, who died outside the Roman Curia, with the favor of Reverend Father Gaspar Felician Cyrtowt, a priest of the diocese of Samogitia.

The Cathedral Churches of Luceori and Zhytomyr are perpetually and canonically united, and are vacant, due to the promotion of Reverend Father Simon Martin Kozlowski to the Metropolitan Church of Mohilov, with the favor of Reverend Father Cyril Lubowidzki, titular Bishop of Dulma and Suffragan of Luceori and Zhytomyr.

The titular Episcopal Church of Samia, under the Archbishop of Thodi, is vacant, due to the translation of Reverend Father Angel Maria Meraviglia Mantegazza to the titular Church of Famagosta, with the favor of Reverend Father Charles Anthony Niedziadkowski, a priest of the diocese of Camenec.

The Cathedral Church of Vilna is vacant, due to the death of the Reverend Monsignor Anthony Andziewicz, the last Bishop of that see, who died outside the Roman Curia, with the favor of Reverend Father Stephen Alexander Zwierowicz, a priest of the diocese of Podlachi.

The Cathedral Church of Leon, in the Mexican territory of North America, is vacant, due to the death of the Reverend Monsignor Thomas Baron et Morales, the last Bishop of that see, who died outside the Roman Curia, with the favor of Reverend Father James Garza Zambrano, Bishop of Saltillo.

The titular Archiepiscopal Church of Seleucia, in Syria, is vacant, due to the death of the Reverend Monsignor Tancred Faust, the last Archbishop of that see, who died within the Roman Curia, with the favor of Reverend Father Thomas Maria Granello, a priest of Bologna, of the Order of Preachers.

The titular Episcopal Church of Eleutheropolis, under the Archbishop of Caesarea, is vacant, due to the death of the Reverend Monsignor Theodore Hermann Rutjes, the last Bishop of that see, who died outside the Roman Curia, with the favor of Reverend Father Boleslaus Jerome Klopotowski, a

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priest of the diocese of Camenec.

The Cathedral Church of Seyna, or Augustów, is vacant, due to the death of the Reverend Monsignor Peter Wierzbnwski, the last Bishop of that see, who died outside the Roman Curia, with the favor of Reverend Father Anthony Baranowski, titular Bishop of Thespiae and Suffragan of Samogitia.

The Cathedral Church of Tabasco, in the Mexican territory of North America, is vacant, due to the translation of Reverend Father Joseph Perfect Amezquita to the See of Angelopolis, with the favor of Reverend Father Francis Campos, a priest of the diocese of Tulancingo.

The Cathedral Church of Tornac is vacant, due to the death of the Reverend Monsignor Isidore Joseph du Rousseaux, the last Bishop of that see, who died outside the Roman Curia, with the favor of Reverend Father Charles Gustav Walravens, titular Bishop of Samosata.

The titular Archiepiscopal Church of Philippi is vacant, due to the succession of Reverend Father Bernard Arguinzonis to the Metropolitan Church of Veropolis, with the favor of Reverend Father Anthony Vico, a priest of the diocese of Ancona.

The Church of Zulian, in the Republic of Venezuela in South America, having been raised to the status of a Cathedral Church by Decree of the Sacred Congregation of the Consistory, dated July 25, 1897, and being vacant from its original erection, with the favor of Reverend Father Francis Marvez, a priest of the archdiocese of Saint James of Venezuela, also known as Caracas.

[*Latin ed. p. 582*]

382 FROM THE CONSISTORY ACTS: The Cathedral Church of Cochabamba, in the Bolivian territory of South America, is vacant, due to the death of the Most Reverend Francis Mary Granado, the last Bishop of that see, who died outside the Roman Curia, with the favor of the Reverend Doctor Hyacinth Anaya, a Priest of Cochabamba. The titular Archiepiscopal Church of Caesarea, in Palestine, is vacant, due to the assignment of the titular see of the Saints Nereus and Achilles, made to the Most Reverend Anthony, Cardinal Agliardi, a Priest of the Roman Curia, with the favor of the Reverend Father Peter Gasparri, a Priest of the Diocese of Nursia. The titular Archiepiscopal Church of Antioch in Pisidia is vacant, due to the death of the Most Reverend Henry de Rossi, the last Archbishop of that see, who died outside the Roman Curia, with the favor of the Reverend Father Leopold Franchi, Bishop of Liburnia. The Metropolitan Church of Turin is vacant, due to the death of the Most Reverend David Riccardi, the last Archbishop of that see, who died outside the Roman Curia, with the favor of the Reverend Father Augustine Richelmy, Bishop of Ivrea. The Cathedral Church of Goccinen, in the East Indies, is vacant, due to the death of the Most Reverend John Gomes

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Ferreira, the last Bishop of that see, who died outside the Roman Curia, with the favor of the Reverend Doctor Matthew de Oliveira Xavier, a Priest of the Diocese of Portalegre. The titular Archiepiscopal Church of Tour is vacant, due to the assignment of the titular see of the Saints Marcellinus and Peter, made to the Most Reverend and Reverend Dominic, Cardinal Jacobini, a Priest of the Roman Curia, with the favor of the Reverend Father Victor John Joseph Mary Van den Branden de Reeth, titular Bishop of Erythrae. The titular Archiepiscopal Church of Chalcedon is vacant, due to the death of the Most Reverend Vincent Leo Sallua, the last Archbishop of that see, who died outside the Roman Curia, with the favor of the Reverend Father Anthony Bell, Bishop of Interamna. The titular Episcopal Church of Epiphania, under the Archbishop of Anazarbus, is vacant, due to the succession of the Reverend Father Francis Bourne to the Cathedral See of Southwark, with the favor of the Reverend Father Sebastian Joseph Pereira, a Priest of the Diocese of Portalegre. The Metropolitan Church of Saint Sebastian of the River January in Brazil is vacant, due to the death of the Most Reverend John Ferdinand Jacob Esberard, the last Archbishop of that see, who died outside the Roman Curia, with the favor of the Reverend Father Joachim Arcoverde de Albuquerque Cavalcanti, Bishop of São Paulo in Brazil. The titular Episcopal Church of Dionysiada, under the Archbishop of Boslre, is vacant, due to the death of the Most Reverend Louis Felix Zdanowicz, the last Bishop of that see, who died outside the Roman Curia, with the favor of the Reverend Father John Volpi, a Priest of Lucania. The titular Episcopal Church of Himeria, under the Archbishop of Edessa, is vacant, due to the translation of the Reverend Father Anthony Joseph de Souza Barroso to the Cathedral See of Saint Thomas of Mylapore, with the favor of the Reverend Father John Gigante, a Priest of Naples. The Church of the Holy Faith in the Republic of Strasbourg, in South America, which, by a Consistory Decree of February 13, 1897, was raised to the status of a Cathedral and had been vacant since its original erection, with the favor of the Reverend Father John Boneo, titular Bishop of Arsinoe. After these matters, the Most Holy Father signified by His Letters, in the form of a Brief, that the following prelates had also already resigned: the Patriarch of Alexandria of the Latin Rite, Dominic Marinangeli.

[*Latin ed. p. 583*]

FROM THE ACTS OF THE CONSISTORY:

Archbishops:
Chalcedon, Antonius Belli.
Turin, Augustinus Richelmy.
Benevento, Donatus Dell' Olio.
Tyre, Victor Van de Branden.

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Philippi, Antonius Vico.
Caesarea in Palestine, Petrus Gasparri.
Caesarea in Cappadocia, Iustinus Adami.
Seleucia in Syria, Thomas Granello.
Antioch in Pisidia, Leopoldus Francfei.
Paris, Emmanuel Van den Bosch.
Saint Sebastian of the River of January, Ioachimus Arcoverde.
Munich and Freising, Franciscus de Stein.
Armid of the Chaldeans, Salomonem Sabbagh.
La Plata, Michael Taborga.
Marianópolis, Paulus Bruchesi.
New Orleans, Placidus Chapelle.
Corcyra, Antonius Delenda.
Bishops:
Stabiæ, Michael De Iorio.
Anglonensis-Tursiensis, Carmelus Puiia.
Diompiadensis, Ioannes Volpi.
Savona and Narnia, Iosephus Scatti.
Himeria, Ioannes Gigante.
Signo, Pancratius Giorgi.
Interamna, Franciscus Bacchini.
Amathe, Bartholomaeus Mirra.
Tournay, Carolus Wabravens.
Saint Thomas of Melapor, Antonius de Souza.
Luck and Zhytomyr, Cyrillus Lubowidzki.
Angustoria, Antonius Baranowski.
Paraná, Rodesindus de La Lastra.
Tucumán, Paulus Padilla.
La Plata, Marianus Espinosa.
Saint-Pol-de-Léon, Iacobus Garza.
Tabasco, Franciscus Campos.
Cochin, Matthaeus de Oliveira.
Zulia, Franciscus Marvez.
Cochabamba, Hyacinthus Anaya.
Vilna, Stephanus Zwierowicz.
Five Churches, Samuel Hetyey.
Salta, Mathius Linares.
Carthage in India, Petrus Brioschi.

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Amis, Ioannes Filzmaurice.
Epiphania, Sebastianus Pereira.
583

[*Latin ed. p. 584*]

584 FROM THE CONSISTORY ACTS: Samia, Charles Niedziadkowski. Castoria, Gaspard Cyrtowt. Eleutheropolis, Boleslaus Kloptowski. Lagania, Conrad Abels. Ruphenaria, Peter Lalowyer. Remesiana, Joseph Leray. Pentacomia, Alphonsus Favier. Rusicade, Augustine Hacquard. Attuda, Maximilian Fernandez. Tours, Peter Bourgade. Saint Cloud, James Trobec. FROM THE HOLY CONGREGATION OF THE COUNCIL OF UDINE, CONCERNING MARRIAGE. June 26, 1897. Session 24, chapter 5, concerning the reform of marriage. February 13, 1893, in the parochial church of the Archdiocese of Udine, Peter, being 28 years of age, having omitted the civil formalities, was lawfully married to Angela, a girl of 19 years. Immediately after the marriage, and for a whole month, they lived together in the same house and in the same bed; then, after disagreements arose between them, the woman deserted her husband and went to live with her mother. The reasons for this separation are not explicitly stated in the documents; and indeed, in this matter, the testimonies of the spouses do not fully agree. Meanwhile, a year passed during which the woman never returned to her husband; then, having been instructed by a certain priest, Pelizzo, Angela approached the Curia of Udine and requested that her marriage be declared null and void, either on the grounds of force and fear, or at least that a dispensation be granted by the Supreme Pontiff concerning the valid but unconsummated marriage. SUMMARY OF THE FACTS.

[*Latin ed. p. 585*]

UTINEN. 585 By order of the Sacred Congregation of the Council, the Tribunal of Utinen diligently conducted the proceedings, both concerning the alleged nullity of the marriage and concerning the alleged lack of consummation; and it transmitted all the documents pertaining thereto. From these, we understand that Angela, as she herself reports, entered into marriage with Peter solely through the prayers, enticements, and beatings of her mother; which does not fully correspond with the testimony of the man, who alleges a different cause for the asserted lack of consummation, entirely dissimilar from that which the woman states.

A Synoptic Discussion: Having noted several points regarding the facts, the Consultor proposed three questions to be considered. First, whether Angela was truly compelled by grave fear to enter into marriage with Peter, and therefore whether the aforementioned marriage is null and void. Second, whether there is proof of a lack of consummation in this case. Third, whether there are just and legitimate grounds in this case to request from

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the Most Holy Synod a dispensation from a marriage that is valid but not consummated.

It is beyond all doubt that a marriage contracted under fear is null and void, provided that the fear possesses the required conditions, at least according to ecclesiastical law. See Cap. 14, c. Veniens 15, c. Consultationi 28, De sponsal. et matrim, and cap. Significavit 2, de eo qui duxit in matrim, etc., as all Theologians and Canonists unanimously teach. D. Thomas, 4th Dist., 29th Question, 10th Article, 3rd Point. Sánchez, De matrimonio, Book 4, Disp. XII. The Salmanticenses, Tractate IX, Chapter IX, Doubt 1. ReifFenstuel, Book 4, Title 1, No. 325. Schmalzgrueber, Book 4, Title 1, No. 386, etc.

However, for fear to render a marriage invalid, it must be grave, or it must be an external force, freely imposed by a cause unrelated to the marriage, unjustly compelling the man to give his consent. The conditions required for grave fear can be appropriately reduced to two: the first is that the evil feared must be...

[*Latin ed. p. 586*]

586. For the threat to inspire fear to be grave, whether absolutely or at least with respect to the person experiencing the fear; secondly, that the person experiencing the fear, not moved by empty apprehension, but by a probable reason, judges that a serious evil threatens them, which can easily occur, either by themselves or by others. In the matter at hand, as is clear from the description of the facts, we are dealing with that kind of fear which is called reverential. Also, importunate prayers, if offered by the person with respect to whom the reverential fear is held, render the marriage invalid, according to the most common opinion. "However, I must point out," says Sánchez in book IV, disputation VII, number 8, "that not any persistent importunate prayers are to be considered such; but rather those which are most insistent, and frequently repeated and inculcated, as the text demonstrates, etc." Furthermore, for the fear to invalidate the marriage, it must persist until the time of the celebration of the marriage; as Coscius states in *De separatione tori coniugalis*, book I, chapter VIII, number 13. And *De Iustis*, book II, chapter XII, number 90. However, it must be proven by arguments that render the invalidity of the marriage beyond doubt; if these are lacking, then one must proceed according to the value of the marriage. "If, after carefully considering everything," says Paulus Laymann in book V, treatise X, part 2, chapter V, number 4, "it is doubtful whether the fear instilled to contract the marriage should be considered serious or not, and therefore whether the marriage is invalid or valid; I believe that judgment should be made according to the value of the marriage. Because, although it is most important that the marriage, which consists of a perpetual union, be contracted with a free will... However, once the marriage has been contracted, it is better to judge it as valid rather than invalid; since the cause of marriage is favorable." Given these principles of law, the question to

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be asked is whether the marriage, which is the subject of this discussion due to the grave fear, was therefore invalid and null. From the procedural records, it is not sufficiently clear whether Angela ever experienced a grave fear that would prevent her from contracting marriage with Peter, and it appears certain to me...

[*Latin ed. p. 587*]

UTINEN. In the year 587, it was alleged that, should she have been struck, she had been fully cleansed before the celebration of the marriage. The actress asserts in her writings that she had always harbored a deep aversion to this marriage, and that she was forced into the marriage she did not desire only by her mother's prayers, flattery, threats, and beatings. However, the seven witnesses summoned by the actress testify to nothing regarding Angela's perpetual aversion to marriage with Peter. Furthermore, the actress's own judicial confession clearly contradicts her extrajudicial assertion. Indeed, Angela openly confesses in court, under oath, that she began to dislike Peter almost two years before the marriage, and that she received certain small gifts from him, although of little value. Peter frequently visited the actress's home at that time, and Angela admits that, at first, this was pleasing to her. Finally, when the actress's mother consented to Peter's request to marry her daughter, Angela smiled and said, "Then I was happy, because people were telling me: take him, he is a good young man." This sequence of events clearly demonstrates that Angela was, for a time at least, affected by love for Peter, and that she wished, without any compulsion of fear, to enter into marriage with him, and therefore, is far from the truth in her assertion that she was always opposed to this marriage. Moreover, the prayers and flattery that Angela's mother employed were not of a kind that could inspire great fear. Surely, no one would say that parents inspire great fear in their children by advising them to marry one person rather than another, presenting arguments that demonstrate the advantages of one marriage over another. Indeed, Angela's mother, while uttering words of this kind, such as "you will be well in Peter's house, Peter has his own home, he has a good family, you will not be far from me, and if you should fall ill, I will be there for you," appears to have done nothing other than to present to her daughter the reasons that would demonstrate the advantages of the marriage she was urging upon her.

[*Latin ed. p. 588*]

588. Concerning threats and beatings, the plaintiff declares, before the judge, that when Peter was repeatedly proposing marriage, in the presence of Francis, the plaintiff's brother, she responded, "Do not come to my house again for this matter, because I do not wish to marry you." When her mother learned this from Francis, she struck the daughter with beatings,

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threatening her repeatedly until Angela was forced to leave the house, if she did not agree to marry Peter; and the plaintiff adds that, influenced by these threats, she promised Peter, in the presence of her mother, that she would marry him the following Sunday. It must be noted, first, that, according to the male witness, the response concerning the matter was not given by Angela; furthermore, Francis, who was present with the plaintiff, was not questioned in court; therefore, it remains uncertain whether the words mentioned are true or false, although, according to Angela, they provided an opportunity for threats and beatings. Furthermore, the words of the plaintiff must also be noted. When asked why she was struck with beatings by her mother, she responded, "Because I refused Peter's proposal, and perhaps also because my mother knew that I was fond of Aloysius." This response raises suspicion that it was not entirely certain to the plaintiff whether her mother used the beatings to extort her consent to the marriage, or rather, to restrain her daughter's freedom. Moreover, fear that was not induced to extort consent to the marriage does not invalidate the marriage. The mother of Angela, when questioned whether she desired her daughter's marriage to Peter, and whether she attempted to force her daughter, through beatings, to enter into the aforementioned marriage, responded that she did desire this marriage, and that, after the betrothal, she had promised the daughter a dowry, the daughter wishing to postpone the celebration of the marriage until April; but the desire to postpone the celebration of the marriage for a time does not exclude the possibility that Angela had a completely free will to marry Peter. Almost all the other witnesses presented by the plaintiff testified in these words: "I heard from Angela, or from others before,..."

[*Latin ed. p. 589*]

UTINEN. "It is alleged that, either before or after the marriage, the mother struck Angela, in order to persuade her daughter to marry Peter," but they offer no other proof, nor do they state the names of those from whom they heard this, and therefore, as they are witnesses of hearsay, they do not fully prove the matter: Leurenius, Book II, Title XX, Question 612, paragraph 2. Schmalzgrueber, Book II, Title XX, paragraph III. But we need not dwell further on the assertions of these witnesses, because even if it is admitted that Angela experienced some fear at one time; it is undoubtedly clear that this fear did not persist up to the time of the marriage celebration, as can be seen from the testimonies of the witnesses and from all the circumstances preceding, accompanying, and following the marriage. The priest Constantinus Gentium, who officiated at the marriage by the delegation of the parish priest, and who blessed the marriage, testifies under oath: "The day before the marriage was to be celebrated, I spoke with Angela, and I asked her if it was true that her mother was determined to marry her to Peter, even if she herself was

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unwilling; and Angela replied: 'A month ago, I did not want this marriage; but now I want it; indeed, at the present time, I would marry him [Peter], but my mother is opposed to it, because I see that Peter is pursuing me with affection, whereas before, it seemed that he wanted to marry me only for the sake of the dowry.'" Angela, when questioned, whether her mother had given her the freedom to do what she wished regarding the marriage, before the celebration of the marriage, replied: "On the very day of the marriage celebration... when Peter said that he did not want to [marry], and only one young man, Francisco, was accompanying the betrothed, my mother said to me: 'In this situation, do not leave; take off your wedding clothes.' To which I replied: 'What madness has seized you that you would suggest that I do such a thing at this moment.'" These statements are entirely consistent with the confessions of the mother, Angela, and the husband, who testifies that on the day of the marriage celebration, he saw Angela to be content, both before and after the marriage. The priest Gentilini declares: "Before the marriage, and tem-

[*Latin ed. p. 590*]

590 UTINEN. During the celebration of the marriage, Angela appeared to me to be content, as is customary with other brides. She gave her consent freely, "which is confirmed by one of the witnesses to the marriage; the deposition of the other witness is lacking in the procedural records. From what has been said so far, I believe it should be concluded: 1° That it is not sufficiently established that the mother ever instilled a grave fear in Angela in order to extort her consent to the marriage with Peter, since the testimonies of the witnesses are not of the kind that would inspire complete confidence. 2° That any grave fear, if it ever was instilled in Angela, was completely dispelled before the celebration of the marriage, as is evident from the entire conduct of the woman, both before and after the marriage, and at the time when the marriage was contracted. Therefore, I believe that the nullity of the marriage, based on coercion and fear, should be entirely denied in this case. Since this avenue of justice is now closed, it remains to be investigated whether there is an opening for grace, or for a dispensation regarding a marriage that is valid but not consummated. In order for such a dispensation to be granted, it is necessary, first of all, to demonstrate the lack of consummation of the marriage with arguments that completely exclude any doubt; the lack of consummation of the marriage is demonstrated primarily by two types of evidence: moral evidence, obtained from the confession of the spouses, confirmed by oath, regarding the lack of consummation of the marriage, and physical evidence, obtained from an examination of the woman's body, carried out according to the instructions of the Holy Congregation. In this case, there appears to be prima facie moral evidence for the lack of consummation of the marriage, but the opinions of obstetricians and the judgments of experts contradict

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the confession of the parties and the testimony of the witnesses, whom they call "seventh witnesses." Angela declares under oath before the judge that the marriage was never consummated. Peter, when asked whether he performed the marital act during the time he lived with his wife, replied under oath: "At that time, I never performed the conjugal act."

[*Latin ed. p. 591*]

UTINEN. 591. Of great importance is the confession of the spouses regarding the matter; firstly, because both spouses had declared the same thing at a time when there was no suspicion, as is evident from the sworn testimonies of certain witnesses. There are also other witnesses who testify that they heard from Angela, or from others who themselves had heard from Angela, that the marriage had not been consummated. Joseph Bernich, the parish priest of the spouses, testifies that, after almost a month had passed since the woman's departure, he called both spouses, and that Angela explained the reason for the separation with these words: "because I was treated as a servant, not as a wife, and therefore he never touched me." When Peter was questioned about the consummation of the marriage, he said that he had repeatedly desired this from his wife, but that she had refused to comply. Furthermore, since there appears to be no danger of collusion in this case, if the husband, who is commended for his honesty, does not desire the dissolution of the marriage, as he clearly states before the judge, and is prepared to restore conjugal life, therefore it seems that he cannot gain any advantage from a lie: hence, great weight should be given to his testimony regarding the lack of consummation of the marriage. Therefore, the same parish priest, when questioned about his opinion regarding the consummation of the marriage and the danger of collusion in the case, replied: "I believe that the marriage was not consummated, because I give credence to the words of Peter. I do not admit the possibility of collusion, because Peter is always ready to receive Angela back, and she does not want to return." In a similar manner, the priest of Gentilini also excludes the danger of collusion. Furthermore, witnesses of great integrity, both male and female, confirm with their testimony the sworn statements of the parties, for they unanimously praise the honesty, religion, and truthfulness of the spouses, and consider them to be such that they would utterly abhor perjury, and many of the witnesses are of the opinion that the marriage was not consummated. All of these things, taken together and considered carefully, provide sufficient evidence.

[*Latin ed. p. 592*]

592. In order to establish the moral certainty required in this case concerning the consummation of the marriage, and because I would otherwise conclude that the marriage remained valid only, unless other impediments exist that must be considered to revoke this conclusion, the following

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must be kept in mind. Generally, marriage is presumed to be consummated when it has been established that the spouses had the opportunity to consummate it. And whenever a strong man has not only lived together with his wife, but has also slept in the same bed with her, and the wife is of an age suitable for marriage and capable of its use, then the presumption of the law arises, and legally, for the consummation of the marriage. Pignatelli, vol. 1, Consultation 148, no. 21. This presumption provides a very strong argument in external matters for the consummation of the marriage, as can be gathered from chapter 12 on presumptions, and it is to be held as true, unless conclusive proofs are presented from elsewhere that, without any doubt, exclude the consummation of the marriage; Zacchias, book IV, title II, question III on the signs of violated virginity, nos. 13, 14. Indeed, it is clear from the testimony of both parties that the spouses, being of a suitable age, slept together in the same bed, not once or twice, but for a whole month. And there is no suspicion of impotence in either the man or the woman. This presumption of consummation is made even stronger by the circumstances present in this case: for, according to the testimony of the husband, the spouses lived together in harmony for several days, which the woman does not deny, having stated to her parish priest that she was content during the time of cohabitation with her husband. In addition to this, the husband testified under oath that he requested the marital debt, and the parish priest declared that she had declared outside of court that she had repeatedly and insistently requested the marital debt. And Angela admits that she did not refuse the husband who was requesting the debt. It is clear to everyone that in these circumstances, there is a very strong presumption of the consummation of the marriage.

[*Latin ed. p. 593*]

UTINEN. 593 marriages, which are to be considered valid unless arguments are presented that certainly demonstrate the lack of consummation of the marriage. Furthermore, an argument derived from the sworn confession of the parties, even if confirmed by the testimony of seven witnesses, does not seem to have such probative force as to render the lack of consummation of the marriage morally and completely certain: first, because the spouses, even if they fully agree in asserting the lack of consummation of the marriage, may completely disagree in assigning the cause of the lack of consummation. Indeed; Peter testified, "On the second night after the marriage began, I invited her to the use of marriage, but she refused, under the pretext of having her menstrual flow." And before the judge, the parish priest of the spouses testified that the husband had confessed, outside of court, that he had repeatedly and insistently requested the marital act: and that the wife had always refused. On the other hand, the plaintiff stated that Peter never requested the marital act, nor did he show a desire to consummate the marriage. Furthermore, the plaintiff confesses that she was

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prepared to perform the act. Angela, questioned officially as to whether, during the period of cohabitation, she had asked the husband why he was unwilling to complete the marital act; she replied: "Twice or three times; and he refused to give an answer: once he said: 'Sleep without me.'" "About five days before I left," the plaintiff continues, "I said to Peter: 'Tell me what you have; why are you treating me this way; do you perhaps have some vice or defect?' And he replied to me: 'I do not want such things now.'" Finally, Angela confessed before the parish priest that she had lived with the man in the place of a servant, and not of a wife, because the man was unwilling to consummate the marriage. Therefore, if credence is given to Peter, the marriage was not consummated, because Angela refused to perform the marital act for the husband who requested it; while, on the other hand, Angela openly confesses that she was prepared to perform the act; and that she desired to consummate the marriage, which, if it was not consummated, the cause of the lack of consummation should be attributed to Peter, who neither requested the act, nor showed any desire to his wife.

[*Latin ed. p. 594*]

594. ANGELMANN. Having desired to use marriage, he acquiesced. Therefore, the testimonies of the parties, concerning the cause of the lack of consummation, are remarkably contradictory. Furthermore, when spouses are found to be completely discordant on a matter of such importance, their sworn testimonies concerning the lack of consummation of the marriage, which are usually given with great solemnity in such cases, lose much of their authority in establishing the truth. It is also necessary to note that Angela herself admitted that she wished to proceed to other marriages; therefore, her testimony regarding the lack of consummation of the marriage is not so easily accepted. (Cosci, lib. 1, cap. XVI, no. 19). When, therefore, the cause of the lack of consummation is entirely obscure, or indeed seems to be absent altogether, the sworn testimony of the parties, even if confirmed by seven witnesses, is very unreliable, unless it is supported by evidence obtained from an examination of the woman's body, which, however, rarely occurs. For the experts, after hearing the account of the midwife, pronounce, without any hesitation whatsoever, that Angela is corrupted. Therefore, the fact of Angela's defloration is certain, according to the judgment of the experts, who, however, excluding intercourse with a man, cannot assign any other cause for the defloration. When, therefore, the fact of corruption appears certain, and, excluding a single act of intercourse, no other cause appears, if Angela lost her virginity through intercourse, as is considered probable by both midwives and experts, it must be considered that she was defiled by her husband rather than by another, since it is not permissible to presume guilt without proof. From what has been said so far, it is clear, unless my memory deceives me: 1° That the spouses, being of flourishing age, cohabited,

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and used the same bed for a month; 2° That they lived in harmony of spirit for several days, as the husband states, and that Angela showed herself content in the days following the marriage, indeed, according to the testimony of the parish priest Joseph Bernich, throughout the entire period of cohabitation with her husband; 3° That the spouses, as each declares on their own part, wished to use marriage; 4° That there is no reason to suspect impotence, either of the husband or of the wife.

[*Latin ed. p. 595*]

UTINEN. 595, or 5° [there is] no suitable reason for the non-consummation of the marriage: all of which undoubtedly lead to a strong presumption in favor of the consummation of the marriage, to which, indeed, all the obstetric reports and the opinions of experts entirely concur. OPINION OF THE THEOLOGIAN. Having briefly recalled the facts that bear upon the matter, the Consultor states that one must come to a judgment of the case and consider: a) whether this marriage can be considered null from the beginning due to force and fear; b) whether, at the very least, it has been consummated, and whether there are, furthermore, reasons that could legitimately move the Most Blessed Father to annul the marriage bond. Regarding the first question, everyone knows that fear, in certain cases, can invalidate a marriage; which has been rightly established by ecclesiastical authority so that there might be the greatest possible freedom in the consent. But, on the other hand, the necessity of the stability of the marriage contract strongly demands that a marriage be weakened only for very serious reasons. Therefore, it was rightly decreed that the fear that would invalidate a marriage must not only have been instilled by a free cause, unjustly and in order to extort the marriage, but furthermore, it must be grave, that is, one that would fall under the category of a constant man, according to canon 15, XIV, 1. It is true that a fear that is, by itself, light can sometimes become relatively grave, considering the circumstances and the qualities of the one experiencing the fear, as is the case with the fear they call reverential fear; but it must necessarily be grave, either absolutely or relatively. In our case, however, if any fear was present, it was only a reverential fear; for the plaintiff complains of no other, except for the mother, and nothing appears in the proceedings to indicate that anyone else acted in such a way as to force Peter Angela to marry. But this kind of reverential fear does not seem to be the kind that would constitute a grave fear sufficient to invalidate a marriage. For, apart from one or two blows, or one or two slaps, the mother did nothing else against Angela, and furthermore, she appears to be a woman prone to anger, from which, however, she...

[*Latin ed. p. 596*]

596 UTINEN. The complainant ceases. But furthermore, it must be noted

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that it is not even evident that the mother acted precisely to arrange her daughter's marriage. Nor should it be overlooked that all of this occurred among peasants, who are ordinarily not greatly afflicted by such quarrels and reproaches. Therefore, it does not seem to be of great importance that Angela, after being struck, fled from her mother's house, especially since she immediately afterwards returned to her brother Aloysius. Therefore, from these things it appears that the fear was not of a grave nature. But furthermore, there are reasons which entirely suggest that this marriage was freely and spontaneously celebrated. Indeed, Angela herself confesses that she went to the wedding that morning, and that she was neither happy nor sad. And the Reverend Mr. Constantinus Gentilini, a parochial assistant who was present at this marriage and blessed the couple, testifies that he saw Angela happy and content at the time of the wedding, and that he detected no sign of sadness in her. And indeed, in the first days of the marriage, she was seen by many to be content; this was stated by Joanna Grimatz, the wife's mother, by Valentinus Sgerovello, who testifies that he heard the same from Angela, and by others. But with things being as they are, who would say that this marriage was not freely contracted by Angela? Therefore, we must immediately proceed to another question; it must be inquired whether it can be morally certain that this marriage was never consummated. Furthermore, this moral certainty of non-consummation is held in the following cases, as stated in Gasparri, Tract, can. de matr. II, 1066: 1° when the spouses could not have had intercourse, either because they were never alone after the marriage, or because the husband's impotence is clearly certain; 2° when it is clearly established by a physical examination that the woman's virginity remains; 3° when such indications and circumstances occur, that taken together they provide moral certainty of non-consummation. Therefore, it must be seen whether in our case there are such morally certain arguments, which would persuade a prudent judge, that this marriage remained valid. But the first head of arguments is entirely lacking. For the spouses...

[*Latin ed. p. 597*]

For 597 full months, as they themselves testify, they used the same room and the same bed; and there is not only no certainty, but not even a suspicion, of the man's impotence. Therefore, no argument can be deduced from this in favor of the lack of consummation, but rather a strong presumption arises that the marriage was consummated, a presumption which cannot be overthrown unless by certain arguments to the contrary. - Regarding the second point of the arguments, a physical examination took place, but with one voice, the midwives and doctors judged Angela to be corrupted. Indeed, it must be noted that all the midwives and two doctors, Gabriel Mandez and Virgil Scaini, testified with one voice that Angela was corrupted, and that the most probable cause of this corruption was intercourse.

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With these things established, what argument, I say not certain, but even probable, can be deduced in favor of the lack of consummation? - It remains to be seen whether other indications are present in the case which, when taken together, suggest the lack of consummation. Furthermore, if such indications existed, they would certainly be contained, especially, in the depositions of the spouses. Indeed, the spouses testify unanimously that the marriage remained valid; but there seems to be a great probability that their depositions are not truthful. For the woman openly denies that her husband demanded that she fulfill her marital duty. She affirmed, indeed, that she would have consented to intercourse if her husband had asked her. The man, on the other hand, testified that he invited his wife on the second night to perform the marital act; but he offered an excuse, citing the flow of menstruation. But furthermore, from her own deposition, the woman appears to be morally certainly lying. For she asserts, under oath and with all fidelity, that she has never lost her virginity. On the contrary, as we have seen, she is certainly corrupted, and most probably as a result of intercourse. Therefore, the testimony of Angela is very probably false, and therefore, certainly, it must not be considered. Thus, the testimony of Peter, the husband, remains; but the testimony of one person, and in these circumstances, certainly does not provide full certainty. Nor does the testimony of the spouses, which by itself certainly does not provide full and certain proof, receive much corroboration from the testimony of a seventh witness. For these witnesses, three of whom are from the woman's side, were not interro-

[*Latin ed. p. 598*]

598. Concerning the matter, they are indeed divided regarding the consummation of the marriage; all maintain the truthfulness of the spouses, but concerning the lack of consummation, they either claim to know nothing or merely report that it is rumored that the marriage was not consummated. Therefore, since no certain argument for the lack of consummation can be obtained, it seems that no progress can be made towards the dissolution of this marriage, since it is clearly evident that there is a danger of violating divine law. In these circumstances, it is useless to meticulously investigate whether the conditions in this case were present, by which the Most Holy Lord could be justly moved to grant a dispensation from the supposed valid and unconsummated marriage. But I confess that even in the hypothesis of a lack of consummation, I find no serious reason in this case. For the man is prepared to admit Angela again to marital intercourse, indeed, he desires that his marriage not be broken. Furthermore, the woman does not seem to be motivated by any serious reason to abandon her husband. Some say that she fled from her husband because she did not find sufficient comfort with him; others, because of a certain question concerning the dowry; still others, because she was more devoted to her mother than to her

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husband. Indeed, some say that Angela fled because Peter was unwilling to have intercourse with her. But let us suppose this to be true, when both Peter asserts that he was repulsed by her, but in vain; and Angela admits that she never asked him to engage in the conjugal act? But furthermore, Angela is of such a character that she gives up hope of ever returning to her husband. Therefore, I believe that it is not advisable to consult with the Most Holy Lord, so that He may grant a dispensation from this marriage.

OBSERVATIONS OF THE DEFENDER OF THE MARRIAGE, BY OFFICE. Reading to me the acts of the controversy, initiated by Angela, the following line from the poet occurs to me: "For what would not mortal hearts give for that sacred hunger?" For the crux of the matter is this: Angela received 500 livres by inheritance from her father; her mother, with Angela, who was 19 years old,

[*Latin ed. p. 599*]

ÜTINEN. In the year 1893, on the 13th of February, Peter, being 28 years of age, entered into marriage. He refused to provide the dowry. This grieved Peter greatly. Angela's mother, after a month had passed since the marriage, preferred to bid her daughter farewell to the husband, rather than to provide the dowry: "My mother," Angela said, "refused to give him the money; and I said: then I will return home. And she said: come." This unfortunate mother, with unheard-of levity of spirit, led two souls, namely her daughter and her son-in-law, to the abyss. For He is not to be scorned who says: "What therefore God hath joined together, let not man put asunder." I believe that the tales of marriage, whether forced or unconsummated, are immoral, since they should be undertaken for the sake of working together; as, indeed, Angela's mother sought to atone for her past fault. For if this is achieved, the marriage is in vain. And in truth, Peter swears: he does not desire the marriage to be dissolved. Peter's mother says: I do not desire the marriage to be dissolved. Angela herself confesses: I did not leave until my mother said, "come"; for Peter was not displeasing to me. With these things having been stated, the question to be elucidated is: Should one consult the Sacred Congregation regarding a dispensation from a valid but unconsummated marriage in this case?

RESOLUTION. After discussion by the Sacred Congregation on June 26, 1897, it was decided to respond: No, and with reservations.

[*Latin ed. p. 600*]

600 ROMA. Pension. July 31, 1897. Session 24, chapter 13, Concerning Pensions. The priest Charles Menghini, enjoying the privilege of a Conclavist (1), upon his death, left the following in his will: "To Augusto Preziosi, in memory of me, I leave my silver crucifix, and, in accordance with the Apostolic privileges, the pension of a Conclavist, in that measure which may belong to him, while I, as a Conclavist, have received L. 155.86 an-

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nually." The assets upon which the pension was originally imposed belonged to the Monastery of the Iron Crypt, but today they are under the jurisdiction of the Sacred Congregation for the Propagation of the Faith; therefore, Priest Preziosi, after the death of Priest Menghini, petitioned the aforementioned Administration of Estates, requesting that the pension bequeathed in the will be paid to him. However, the Administration of Estates refused, asserting that pensions can validly be transferred only by a living instrument, and not by a will. Therefore, Priest Preziosi appealed to the Most Blessed Father, insisting on his right to the pension, and especially recalling that in the Motu Proprio granting the pension, the privilege of transferring the pension was granted, even in articulo mortis. Finally, he implored the clemency of the Most Holy Prince, praying for the grace of a favorable decision, should justice not fully suffice. The esteemed Vicar and the esteemed Prefect gave a very favorable opinion to the Administration of Estates. The esteemed Vicar referred the matter to the prudent consideration of the Sacred Congregation. The esteemed Prefect of Estates, however, issued a reprimand.

COMPENDIUM OF THE FACTS.

(1) By the name "conclavists" are meant the relatives of Cardinals whom the esteemed ones can bring to the Conclave to care for them. Conclavists are approved in the eighth congregation held by the Cardinals in the sacristy of St. Peter after the death of the Pope. There are many privileges for conclavists; among them is the ability to transfer the pension obtained during the Conclave to another.

[*Latin ed. p. 601*]

ROME has presented 601 dissenting opinions against the petition of the Most Reverend August Pretiosus, supported by the opinion of a canonist, and which is of the following tenor: Titus, a priest who participated in the Conclave in which Leo XIII was elected, whom God may long preserve, in his handwritten will, among other things, states: "In accordance with the Apostolic privileges, I bequeath to Caius the pension of a Conclavist in that measure which may belong to him, while I myself have received as a Conclavist 1,558.86 lire annually."

The question is: Whether, according to the Apostolic privileges, and especially according to the Motu Proprio of Leo XIII, March 13, 1878, by which these privileges are declared, the transfer of the pension is permissible in this case.

To the proposed doubt, I respond: No, for the following principal reasons.

It is well established in law that the transfer of a pension made under the condition of the death of the transferring party is invalid. *Monacell. For-

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mul. Adnotat., p. II, tit. XIV, n. 4 - Garcia, De beneficiis, p. 1, c. 5, n. 54 et 55. - Paris, De confid. quaest. 23, n. 49. - Card. De Luca, De pens. diseurs. LXIV, n. 2 et passim. - Lotter. De re benef. lib. I, quaest. 40, nn. 19 et 20. - Barbosa, De pens. - Rodríguez. - Flam. - Vega. - P. Ledesma.* The reason that all Doctors of Canon Law give is this: because the transfer made under the condition of the imminent death of the transferring party is not a prolongation of the same pension, but the establishment of a new one, to the detriment and new burden of the Church. For even a transfer from a sick person near death, unless a new pension is established by a living instrument, is understood, as Monacelli rightly observes in the aforementioned passage, n. 15, "with all exemptions and privileges." By this expression, it is understood that...

[*Latin ed. p. 602*]

602 In ROMA, once the pension has been transferred, that same pension, with no difference from the original, is reserved, as stated by Cardinal De Luca, *De pensionibus ad Constitutionem Innocentii XI*, chapter 15, paragraph 1. And the extinction that occurs through the executor during the act of transfer is rather a change of person and of the life of the one transferring into the person and life of the one being transferred, rather than a true extinction, according to the constant opinion of the Rota before Buratti, decision 638, paragraph 3; before Merlin, decisions 243, paragraphs 12 and 23; before Dunoz, June decision 768, paragraphs 17, 48, and 19; and before Cerr, decision 628, paragraph 5. Exemptions and privileges pass to the one being transferred, who enjoys the same right and privilege as the one who transferred it. The Rota, decision 122, paragraph 10, part 2, as cited by Lotter, *De re beneficiorum*, part 1, question 40, paragraph 346, also states that the obligations and guarantees made in the reservation of the pension remain valid and intact. Tondut, *De pensionibus*, chapter 30, paragraph 32. It has been hotly debated by the ancients regarding the validity of a transferred pension through an act between living persons by those constituted in the Conclave at the point of death, especially after the Constitution of Urban VIII: and the Doctors who defended the validity of such a transfer presented only this reason, as stated by Cardinal De Luca, *De pensionibus*, discussion 56, paragraph 5: "Where there is a transfer, daily practice teaches that it can be granted even to the infirm, indeed, even to those constituted at the point of death, because the Church is not considered burdened by a new obligation due to the uncertainty that the one being transferred may die before the one transferring it, as is noted in the aforementioned decisions before Buratti and Merlin." Also, in another discussion: "...that the transfer would not be less objectionable, and would imply a postponement of the burden and servitude due to the possible prior death of the one being transferred, proceeding with the common saying that the lamb often dies before the sheep." De Luca, discussion 51, paragraph 10. This would be sufficient to exclude the possibility of transfer-

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ring pensions by will: for if the sole condition of the superiority of the one transferring harms the validity of a pension transferred by an act between living persons, what should be said of a transfer by will?

[*Latin ed. p. 603*]

ROMANA 603: Is a transaction valid by the testator's last will, which necessarily implies the testator's death? In only one case does the condition of death invalidate the transfer, but it is invalidated; namely, according to the most elegant distinction proposed by Cardinal De Luca, when the condition of death is placed as a motivating cause, and not as a final cause. Therefore, Garcia argues against Navarrum, "that the addition of the Council is rightly maintained, which, when writing about transfers under the condition of death, states: 'since through these transfers the pension is extinguished and a new one is established, it seems that this power of transfer cannot find its place except in an absolute transfer.'" Therefore, Garcia concludes, it also seems that a transfer cannot be made by will. Furthermore, it would suffice with the provision contained in the Motu Proprio of Leo XIII, which authorizes Conclavists to grant and assign pensions "so that the aforementioned transfer is considered to be a substitution in all respects (which is the power to demand the pensions or their fruits) in which the aforementioned Conclavists existed at the time of the transfer." However, at the time of a transfer made by will, which is only valid after the death of the testator, the Conclavists are no longer in possession of the pension, which is a vital benefit, nor do they have any right to demand the fruits. Therefore, a transfer made by will will be invalid and void. I consider it superfluous to dwell longer on this most evident matter; therefore, I omit all the arguments that could be drawn from the treatise on donations and which would have the closest analogy to the present question.

REMARKS OF THE ACTOR. On the contrary, the Reverend Pretiosi argues that a pension can be validly transferred by will in this manner. And first of all, he invokes the favor of the privilege enjoyed by Conclavists to transfer pensions; and he claims that this privilege, granted by Motu Proprio, is to be interpreted in the broadest sense. The words in which this privilege is expressed are as follows: "Furthermore, to the aforementioned Conclavists and to each of them, any annual pensions reserved or to be reserved, even if only once or more..."

[*Latin ed. p. 604*]

604 In ROMANA, if pensions have been transferred up to the maximum amount of sixty ducats of gold from the treasury, either in whole or in part, and in one or multiple instances, and even at the point of death, they shall be cancelled and extinguished, and after they have been cancelled and extinguished, other similar annual pensions up to the aforementioned maximum of sixty ducats shall be paid to one or more other ecclesiastical

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persons in the same manner and form as those to whom they were originally reserved, even without the consent of those holding such benefices, and shall be received, demanded, levied, and collected by them with their own authority. The Advocate then argues that this clause is equivalent, even at the point of death, to a bequest, namely, through a testament. To support his interpretation, he cites the authority of Doctors, and first quotes Lotterius, in *De re benef.*, book 1, question 40, number 9, who writes: "From this, the faculty of transferring can be exercised even at the point of death; the transfer can be made through a testament; for while the holder of the pension has the power to transfer it while he lives, he can certainly transfer it through an act between living parties." And then, in number 52, he says: "Although this clause seems to be granted even at the point of death out of abundance rather than necessity, since even without it, the transfer is considered permissible at the point of death, nevertheless it seems to be beneficial that, just as a testament made by a dying or semi-dead person is upheld, provided that he can still express his will to a Notary or another, so too a transfer made by such a dying person is upheld." Tonduti, in *Tractatus de translatione pensionis*, chapter 28, number 13, states: "Successors could demand such pensions in the manner and form in which the transferring party could do so. These words include not only the successor who transfers through acts between living parties, but also one who is named through the last will and testament." And in number 30, he notes: "The soldiers of St. Peter have the faculty of transferring pensions before a Notary and witnesses, because in this case the Notary is used not to interpose his authority, but only for proof; the same privilege is granted to the Conclavists... provided that it does not exceed the sum..."

[*Latin ed. p. 605*]

ROME. 605, concerning the privileges of those involved. Farinelli, in his *Tractatus de translatione pensionis*, chapter 4, paragraph 1, states: "A transfer is validly carried out even in articulo mortis, even if it is not expressly stated in the grant; for since it is not found prohibited therein, it is considered permitted, as was decided in the Rota in the year 1541, as testified by Puteus, *Dec. 133, lib. 1*, which is supported by Gambar, *De pet. leg. lib. 6, tit. De pensionibus, n. 637*, and others. Mandos. *De lit. Signat. Orat. tit. translationes pensionum vers*. Furthermore, *Quantum attinet* - Paris, *De résignât, lit. 6, q. 4, n. 34*. - N. 2. Then it can be transferred even by will, provided that the one transferring is of sound mind." Corradus, in *Praxi benef.*, book 5, chapter 5, paragraph 50, asserts: "For since a transfer can, by its very nature, be carried out in articulo mortis, much more so when this is expressly stated in the grants; it must be regulated by the rules for validly making legacies; for a pension is assimilated to legacies and contracts, as Gomes states, question 16 - Cardinal De Luca, *De pensionibus, disc. 59, n. 8*." Finally, the advocate complains, referring to the authority

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of Barbosa, *Prax. de pens., P. I, q. 2, n. 69*, which states: "And the holder of the title cannot obstruct the executive action available to the transferee by preventing it in a nullity action, as if the exception of a pending lawsuit should delay the execution, because by prevention, the executive action is not hindered." Furthermore, the advocate cites several authorities from the Sacred Rota, which are explained after he has presented several points of law.

OBSERVATIONS FROM THE OFFICE. First of all, it is important to remember that here we are not dealing abstractly and doctrinally with whether a pension can also be transferred by will, but rather whether that clause, even in articulo mortis, confers this power, or, as canonists say, whether this is obtained by the force of the implied transfer of pensions. Furthermore, since the Supreme Pontiff has manual possession of all benefices and can dispose of their fruits at his discretion,

[*Latin ed. p. 606*]

606. Indeed, the [Holy See] can grant permission for a pension to be assigned, as is indicated here in the will, to a person to whom the pension will be reserved after the death of the pensioner. I say "assigned to a person," because the pensioner, when his death extinguishes and completely dissolves the right to the pension, cannot transfer that right to another. However, when the Holy See assigns the pension to a designated person through a will, the intention is to reserve the right to the pension again for that person and to augment that person's right to the pension by law. This appears to be what Tonduti / from the cited author, states in n. 13: "The same must be said if the transfer is made through the means of the last will, when permission for this is granted by the Supreme Pontiff; for example, if, according to an agreement between the parties, it had been stipulated by papal bulls, with the consent of those who were obligated to pay the pensions, that such pensions could be transferred by the pensioner to any person; and that they would pass to the heirs of the pensioner, who could receive such pensions in the manner and form in which the transferring party could. These words encompass not only the heir who is transferred by a living transaction, but also the one who is named in the last will, both by the general wording and because the term "heir" includes also the one who succeeds by the disposition of the last will, as Paris concludes in Consil. 46, lib. 4, and Flam. Paris, De resign. lib. 6, tit. 4 n. 35." However, as Tonduti himself explains in chapter 29, n. 1, in such a case, there is not a transfer of the pension, but rather a designation of a beneficiary. And according to this distinction, Fatinelli de Fatinellis, Tract, de transi, pens., chapter 4, n. 10, observes: "Nor do Garz. De benef. and Corrad. in Prax. benef. contradict this, who hold that a transfer cannot be made in a will, because they speak and are to be understood of a transfer by the mode of hereditary succession and the last will, independently of the granting of

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an indulgence, for example, if the pension were bequeathed or donated for the cause of death, and not of those that are made with the proper form of an indulgence." Hence, the question is, in the present case, whether, by means of an indulgence – a *Motu proprio* – a pension can be transferred by a will.

[*Latin ed. p. 607*]

ROMANA 607. The terms of this grant are indeed conceived in customary formulas, as explained by the works of canonists, especially Lotterius, *De re benef.*, book I, questions 36, 60. However, these clauses most clearly permit only a transfer that is actually carried out during the lifetime of the individual. The clause, even in articulo mortis, to which the advocate so confidently appeals, in reality possesses nothing unique and grants no faculty that is not otherwise contained within the grant of transferring the pension during the lifetime of the individual. No one can doubt that, even though present here in articulo mortis, the individual is still alive. This is what all the Doctors, whom the advocate believes to support his argument, acknowledge. Lotterius, I.c., question 40, number 55, states: "And although that clause seems to be granted even in articulo mortis out of abundance, whereas, even without it, the transfer is considered permissible in articulo mortis, etc." And Fatinelli, I.c., states: "The transfer is validly carried out in articulo mortis even if it is not expressly stated in the grant; for since this is not found to be prohibited, it is considered permitted, etc." And so write other Doctors; but this is sufficient to indicate. Having admitted that a valid transfer can be made even in articulo mortis, it follows that the transfer can be made together with a will; thus, by adding one act to the other, although they are entirely distinct from each other; for one is completed by the death of the testator, the other by the will of the living individual who transfers; otherwise, the transfer cannot be sustained, so that the clause concerning pre-emption cannot in any way be admitted. Thus, the canonists cited by the advocate reason. Lotterius, I.c., teaches: "From which it follows that the faculty of transferring can be exercised even in articulo mortis, the transfer can be made by will; for since the grantee has the power to transfer as long as he lives, he can certainly transfer by an act inter vivos." Fatinelli, Op. cit., number 10, observes: "The faculty of transferring can be exercised even in articulo mortis, the transfer can be made even in a will; for since the grantee has the power to transfer as long as he lives, it can certainly be transferred by an act inter vivos, even if completed in a will..."

[*Latin ed. p. 608*]

608 In ROMA, provided that the proper form of the grant is observed. Here, Fatinelli elegantly expresses the material union of the translation with the will, stating that this is not done *through* the will, but *in* the will. However, in the text of the grant, the words "Indulti" clearly indicate

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an act performed between living parties, and it seems doubtful that it can be called into question; for they grant "to Conclavists, and even at the point of death, to annul and extinguish, and after they have been ANNULLED and EXTINGUISHED, to reserve, constitute, grant, and assign other similar annual pensions... to one or more, or to other persons of the Church." Therefore, the translation takes effect only after the one transferring has, through his own action, annulled and extinguished the pension, and established another. Lotterius explains this clearly in *Op. cit.*, Vol. I, Question 40, paragraph 12 (there): "But when [the Pope] either orders or himself transfers, he must always observe this form, so that the translation is carried out in such a way that the previous pension is first extinguished, and a new one is reserved for the benefit of the person whom we call the transferee; the reason for this form must be investigated first..." Paragraph 13: "And the reason for this form is nothing other than to completely exclude any kind of hereditary succession in this matter, as is stated in the chapter at the end, where the Glossa on the words 'successores de filiis presbyt.' is found; and in the chapter 'consuluit,' where the Glossa on the words 'hereditariae de iur. pat.' is found; and therefore, all action or right that the transferring party has must be extinguished, so that in this way the new right that is created in the person of the transferee belongs immediately to him and depends on the Pope; just as it happens in renunciations made for the benefit of others; moreover, in these cases, the Pope does not grant anything until the right of the one renouncing is extinguished through the acceptance of the resignation, and thus a new vacancy is created, so that the one resigning is in no way understood to have acquired any right from the one resigning, but only from the Pope himself; Cassad. decis. 15, paragraph 1. The same Doctor, in paragraph 17, states: "And thus, it can be safely concluded that this form is an essential part of the act of translation, so that this new pension cannot be reserved for the person of the transferee unless the previous one has been extinguished in the person of the transferor."

[*Latin ed. p. 609*]

ROMANA 609 Therefore, it is clearly evident how the transfer of this kind of right, although materially completed in a will, acquires the nature of a contract during the lifetime of the parties, just as a donation becomes irrevocable upon the acceptance of the donee, and is not subject to revocation, until the very end of life, as long as the will of the testator endures. This is excellently confirmed by Fatinelli, *Op. cit.*, I, cited above, n. 13 and 14 (therein): "Although the transfer may have begun in a will, it nevertheless assumes the nature of a contract, due to the right of transfer sought from the person to whom it was ceded, or delegated, especially concerning the notary who stipulated it, since it is established in law that a contract and act can be celebrated in a will, and thus, the transfer, which is the subject matter here, demonstrates that it is irrevocable." Therefore,

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the *Indulto* – a papal decree – is clearly intended, and the question is only whether an inquiry should be made regarding other clauses in which other *Indulti* or special privileges may have been included. — Therefore, the decisions of the Sacred Roman Rota, which the advocate cites, are of no weight; for these refer to entirely different species of cases from the question at hand; and the advocate himself admits this. However, he clings to certain general principles which are recalled and explained in these decisions. — Thus, in *Recentiores Par.* V, vol. I, in Decisions 12, n. 33, this principle is applied and developed, namely: "An *Indulto* granted with the most explicit words is absurd if it produces no effect." Indeed, no sane person would dispute this rule; but in this case, it is clearly applicable, so much so that even in articulo mortis, a pension can be transferred from a babbling and semiconscious person. However, this does not mean that a favor can operate to convert an act performed during life into an act performed after death. — From Decision 30, n. 35 of the same *Part* and volume, the following assertion is presented: "A clause operates in every possible way to support the transfer of the pension as much as possible," and the advocate recalls that the pension was transferred in such a way that it could be rightfully claimed. — However, whatever the intention of the transferor may have been, it is proven that he intended to complete the transfer by an act performed after death. *Acta, Tom. XXX*, fase. CCCLVIJI, 39.

[*Latin ed. p. 610*]

610 In ROMA, a cause or testament; therefore, although the transfer of the pension should be maintained as far as possible, it is not possible to maintain the transfer which could not have been validly completed in any way. The following passage from decision 46, no. 8, I, states: "It was alleged that the form of the transfer had not been observed, since the aforementioned privileges do not prescribe a specific wording; it is sufficient that the form has been observed virtually in the privilege of transferring." – In truth, if one considers the form established for transferring such pensions, it will be clear that the act of transfer in question has gravely violated not only the substance, but also the form, and has not even been virtually observed. – Fatinelli, *Op. cit.*, chapter 3, no. 1, using the same words that are expressed in the Motu Proprio Indult, explains the form of the transfer as follows (there): "Since, especially in the Indults granted to Cardinals, executors are designated before whom the transfer must be made, namely: anyone of the local Ordinary, or of the Canons of Metropolitan or Cathedral churches, or of two Collegiate churches of the insignia of the city, or of any other person constituted in ecclesiastical dignity. Therefore, etc." – And further, in chapter 4, no. 10, it states that a transfer actually made between living persons is valid "as long as the form of the Indult is observed with regard to the intervention of a person constituted in ecclesiastical dignity,

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etc." Furthermore, Tonduti, *Op. cit.*, chapter 28, no. 30; and Lotterius, *Op. cit.*, 1.1, q. 4, no. 42, affirm that the act of transfer, if the form is not observed, has no validity. With these premises, two questions have been proposed by the aforementioned petitioner, so that if the path of justice fails, the path of grace may be available. Question I: Can the transfer of the pension be maintained in this case? Question II: Should one petition the Most Holy Father for the grace of validation or a new concession in this case?

[*Latin ed. p. 611*]

ROMAN RESOLUTION 611. The Sacred Congregation of the Holy Office, after deliberation on July 31, 1897, decided to respond as follows: To I. Negatively. To II. It is not within the scope of the matter under discussion.

FROM WHICH THE FOLLOWING IS DEDUCED:

I. The question concerns whether, in the case of Cardinals residing in Rome who receive a pension granted by the Holy See, the power to transfer said pension to another person, which is granted by the pontifical indult, also confers upon them the right to transfer such a pension to others by means of a will, even at the point of death, by virtue of the clause of the pontifical indult.

II. There is no doubt that a pension received by Cardinals can be transferred to another, provided that it is done by a legal act between living persons, even if the Cardinal, while carrying out this act, is at the point of death, speechless, semiconscious, and only able to express his will through gestures.

III. For, as long as the pensioner is alive and enjoys the pension, even if he is in his final moments, if he transfers his pension to another by a legal act between living persons, it appears that he is prolonging his own, and not establishing a new pension, or a new burden for the Church.

IV. After the declaration of the Sacred Congregation on this matter, the doubt has vanished, and it has become certain that, from the clause of the pontifical indult, the power to transfer one's pension to others by means of a will cannot arise for Cardinals, even at the point of death.

NULLIUS SACRAE TRINITATIS CAVEN. FACULTY OF CONFERRING THE SACRAMENT OF CONFIRMATION. December 11, 1897. Session 23, chapter 10, concerning reform.

COMPENDIUM OF THE MATTER. From its foundation, or from the year 1011, the Monastery of the Most Holy Trinity of Caven has been endowed with numerous privileges, and especially with spiritual jurisdiction

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over the faithful residing in the extensive area bordering the Monastery.

[*Latin ed. p. 612*]

612. The monastery of the Most Holy Trinity at Cava de' Tirreni obtained its immunity from any archiepiscopal or episcopal jurisdiction. This was granted by Gregory VII by decree in the year 1073, and subsequently confirmed by other Popes. Among others, Urban II, who had been a monk in the monastery at Cava de' Tirreni and had consecrated the church of that monastery with his own hands after obtaining the papal seat, increased the dignity of the Abbot of that monastery by conferring upon him, by a Constitution of September 14, 1092, the functions of episcopal jurisdiction; for it stipulated (therein): "We grant and eternally confirm that you, and your successors within the lands of your monastery, may freely build churches, consecrate them with the cross, and exercise other pontifical and spiritual functions, including the conferring of the sacred orders, the consecration of basilicas and altars, and the preparation of chrism, all these powers being entirely granted to you and your successors." Later, due to a privilege granted by Alexander III, episcopal insignia and the use of pontifical vestments were also added, so that such a church began to be granted in commendam to bishops, and even to Cardinals of the Holy Roman Church. However, due to abuses that arose from this, Alexander VI, by a Bull of April 10, 1497, restored the matter to its former state, confirming the rights and privileges of the Abbot, including those of an episcopal nature. However, the city of Cava, lamenting the great diminution of its prestige that resulted, obtained from Leo X that it be incorporated into the episcopal seat, which was done in the year 1514 through the dismemberment of the territory of the Abbey of the Most Holy Trinity. However, this, although its boundaries of jurisdiction were diminished, did not suffer the loss of its privileges; as was declared by the Sacred Rota at Marsica, concerning the jurisdiction over the goods of the Abbey, on June 7, 1700 (therein): "The Abbots have indistinctly exercised all acts of jurisdiction within the same territory. They directed dismissal letters to the Bishop of Marsica, conferred the tonsure, the minor orders, chrism, and benefices, and received the obedience of those who were ordained."

[*Latin ed. p. 613*]

"The acts of the Holy See, Trinity, Caven, 613, included granting of dispensations, confirming of patronages, convening of meetings for the parish, administering the sacraments, calling of Synods, and exercising jurisdiction in spiritual, temporal, civil, criminal, and mixed cases within the territory of Tramutula, and for this purpose, appointed a vicarius; they visited the churches of the locality and pious places, performing pontifical acts during the visitation, etc." And all of these matters are still subject to discussion even today; indeed, this morning, the Sacred Congregation

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is considering whether it is permissible for the Abbot to administer the Sacrament of Confirmation to subjects belonging to another diocese, with the permission of the bishops. This doubt greatly troubled the Abbot, now deceased, who in the year 1892, added this supplication to the Most Holy Prince: "The current Abbot... following the custom of his predecessors, also administers the Sacrament of Cresima [Confirmation] to the faithful of neighboring dioceses, always with the explicit permission of their Bishops, especially in extreme cases, when, in the absence of the diocesan Bishop, it is urgently requested by the Vicarius general, or at least by the parish priest of the place. Therefore, having some doubts about the legitimacy of his actions, the Abbot, the speaker, appeals to the clemency of Your Holiness, supplicating that you confirm with an appropriate Apostolic sanction the practice mentioned above; and this both to reassure his conscience, and also to avoid the admiration and scandal that would result among the faithful if the Abbot of Caven, abandoning the ancient practice, were to refuse in the future to respond to the usual requests, especially in cases of urgency." The aforementioned petition was presented to the Sacred Congregation, and on January 7, 1893, the response was "Non expedire" [It is not permissible]. The Abbot Morcaldius, deeply grieved by this, and himself comforted by the Supreme Pontiff, managed to obtain "through a living voice, that very faculty, for the duration of his life." The current Abbot, who succeeded Morcaldius, petitioned with a similar letter, requesting that the same grace be extended to him for the duration of his life. But from..."

[*Latin ed. p. 614*]

614 In the archives of the Most Holy Trinity of CAVENSIS, a decree dated July 3, 1894, was found stating "It is not permissible." Then, the Advocate more earnestly petitioned the Most Holy Prince, requesting that the desired faculty be granted to him for life, but the Most Blessed Father only agreed to grant the grace provisionally; therefore, in repeated letters, the Abbot wrote to the Cardinal who presides over public affairs, stating: "His Holiness has not intended to pronounce judgment on the matter of law. For this solution, it is necessary to appeal to the competent Dicastery, that is, the Holy Congregation of the Council. Therefore, Your Eminence may submit your reasons to it, in order to have declared that the Abbot of Cava possesses within himself the privilege that you maintain, based on a legitimate interpretation, and sanctioned by the practice of many years." The Abbot, through his advocate, presented more arguments in law and in fact. First, the advocate recalled that even a simple priest can be delegated by the Supreme Pontiff to confer the Sacrament of Confirmation. Then, he noted that it cannot be denied that this power of ministry has been most abundantly conferred upon the Abbots of Cava by the highest authorities of the Church. For eight centuries hence, Urban II sanctioned the integral and perpetual episcopal jurisdiction granted to the Abbot for a long time,

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except for three things, namely, "the conferral of the sacred orders, the consecration of basilicas and altars, and the preparation of chrism, completely renouncing this power to you and your successors." In this place, since only the preparation of chrism is excepted, it clearly follows that the conferral of the same chrism is permitted. But these and other jurisdictions were not only acknowledged, but most abundantly defined, even through a new "addition, supplementation, concession," if necessary, in the year 1596, in memory of the holy Gregory XIV, after the vote of the Holy Order, thus establishing: "all and each of the privileges that had been approved by the Congregation of said Brothers, are immutable."

[*Latin ed. p. 615*]

"The [religious order] of the Most Holy Trinity of Cava [de' Tirreni], number 615, possesses graces, faculties, and privileges, especially the power to confer the sacrament of chrism, provided that it had previously been consecrated by a Catholic prelate, holding communion with the aforementioned See, and that this was perpetually confirmed and approved by Apostolic authority." The advocate distinguishes the exercise of the power of confirmation in three ways: firstly, when the Abbot confirms those subject to him within his own diocese; secondly, when he confirms outsiders within his own diocese; and thirdly, when he confirms outsiders in a foreign jurisdiction. For the time being, we are concerned only with the last question; that is, the right of confirming subjects belonging to another diocese within a foreign diocese. However, it seems appropriate for the advocate to also mention the faculty of confirming outsiders within his own diocese, so as to pave the way for a clear understanding of the present question. In this regard, the advocate notes that the writers on canon law teach that it is permissible for any bishop to confirm those who are subject to another bishop and who are present in his own diocese, not only through an express or tacit delegation, but also through a presumed delegation of the competent bishop, if such a custom has prevailed. Saint Ligori, in book 6, treatise 2, chapter 2, question 2, number 172, states: "It is asked whether a bishop can confirm outsiders within his own diocese. Speaking in general terms, it is certain that he cannot... It is certain and commonly held by the Doctors that where this is permitted by custom, it can lawfully be done, as Concina I. 8, page 216, number 18, Holzm. p. 45, number 209, and Roncaglia quaest. 1, R. 1, state. And that this is a practice commonly accepted in use, as Palaus correctly states on page 9, number 7, and Croix in book 6, page 1, number 392." The Abbots of Cava also commonly exercise this power in the conferral of holy orders, namely, to confer orders upon those who are not subject to them, within their own territory; which was confirmed by the Holy Congregation [of Rites] on the days of June 26 and August 31, 1634, after the judgment of the Holy Rota, in the following terms. "Given the following questions:

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I. Do the Abbots of the Most Holy Trinity of Cava, who possess ordinary jurisdiction, enjoy the privilege of conferring the minor orders upon those not subject to them? - II. Is the ordination valid in such a case? - III.

[*Latin ed. p. 616*]

616 "In casu negativo, ordinatio repetenda sit, etc." – ita scriptum est. "Ad primum et secundum, affirmative. – Ad tertium, negative." Hinc, arguit orator, si haec iure communi obtinent Abbates ope consuetudinis, pro alienis subditis, etiam sine competentium Episcoporum venia, multo magis obtinebunt cum Episcopi ipsi consentiant, concedant vel requirant. Non modo theologi ad unum omnes licitam et validam cuiusque Episcopi confirmationem renuntiant, sed etiam demonstrant aliorum Episcoporum expressam veniam non requiri, sed eorum consensum praesumi. Reapse divus Ligorius, loc. cit. n. 173 ait: "Bonacina sentit probabilius esse quod in hoc (in confirmandis alienis) non sit praesumenda ratihabitio Episcoporum, nisi constet... Alii vero communius et probabilius censent Episcopis licitum esse confirmare alienos subditos, quia semper praesumitur, nisi aliter constet, tacitus consensus aliorum Episcoporum, qui credendi sunt velle suas oves non privari hoc sacramento, cum nullum incommodum ex eo ipsis proveniat." Ac paucis, Sanctissimus Cardinalis D'Annibale in Summula I. 3, § 282 not. 13. – ibi-: "In sua vero dioecesi (Episcopus) licite confirmat extraneos; quod consuetudine et tacita episcoporum consensione est introductum." Hanc facultatem vero competere Abbati declaravit S. Cong. Rituum die 17 Nov. 1881, quae primo constituit: "Abbas etc. sacramentum confirmationis conferre consuevit non tantum fidelibus sibi subiectis, sed etiam iis qui ex finitimis dioecesibus in territorium propriae iurisdictionis eiusdem sacramenti suscipiendi causa advenire solent." Deinde vero "ut omnis haesitatio in re penitus abigatur, Sanctitas sua referente etc... declaravit reverendissimis Ordinariis praefatae Abbatiae posse in territorio propriae iurisdictionis sacramentum confirmationis, etiam fidelibus ad aliam dioecesim pertinentibus ministrare, dummodo plane constet eos ab Ordinariis veniam obtinuisse; quibus collatae confirmationis fides ab ipsis reverendissimis Abbatibus post transmittenda est."

[*Latin ed. p. 617*]

NULLIUS SS. TRINIT. CAVEN. 617. The very power to confirm strangers within one's own diocese can be challenged, it is argued, in comparison to the power to confirm strangers in a foreign diocese; however, the advocate demonstrates that the former power derives from the permission of the Bishops, especially when supported by ancient custom. But both custom and permission apply equally to the Cavensi Prelate in both cases, whether within his own diocese or in a foreign one. One distinction might be observed: that the reason for the granting of the power is different, either by the ordinary or by the Bishop, or by a delegate, or an Abbot. But this is a

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distinction in name only, not in substance or truth. For, by common law, the condition of both is the same, and both are prohibited from confirming strangers, whether in their own or in a foreign diocese, unless their own Bishop consents or requests it. Therefore, the advocate insists, both are prohibited from ministering to strangers, whether in their own or in a foreign diocese, unless their own Bishop consents or requests it. However, when the Pontiff, having granted this permission, decrees that an Abbot may minister, he thereby defines that both ordinaries and delegates are in the same condition. But, returning to the question raised by the advocate, he notes that Bishops possess the power to administer the sacrament of confirmation by native right: while the Abbot of Cavensi possesses a special privilege granted by pontifical delegation. But it is clear to all that, through delegation for a certain act, not a part of jurisdiction, or a lesser jurisdiction, but the entire jurisdiction is conferred, as much as the laws require in that ministry, as Schmalzgrueber states in book 1, title 29, § 6 – and there: – "The delegate is to be considered as one to whom jurisdiction is not granted by the law of his office, or with regard to it, but by a special commission alone, so that by reason of that commission he is considered to have the whole [jurisdiction]." Therefore, the advocate argues, the Abbot of Cavensi, delegated by the Pontiff, possesses the entire power of the Bishop. Indeed, the same author continues in § 10: "The question arises: 2° whether a delegate can delegate to another, by the Pope, or by another supreme Prince... The affirmative answer is certain, etc. A delegate from a supreme Prince is equated with an ordinary." Therefore, because in the Abbot, for the exercise of the granted power to minister the Sacrament of Confirmation, even in a foreign diocese,

[*Latin ed. p. 618*]

618 It appears that the consent of the Ordinary is only an obstacle to the Holy Trinity of Cava [de' Tirreni]. The advocate observes that it is not necessary for the Bishop to permit the Abbot to exercise such an act of his authority within his jurisdiction and over his subjects. It could be objected that the faculty granted by the Pontiff is a privilege, and that, according to the nature of privileges, it can be revoked, so that it does not even exceed the limits of the concession. However, Urban II, in the year 1092, although he does not speak of the ministry of confirmation, nevertheless grants a privilege of all kinds of jurisdiction "through the lands of your monastery which you possess and hold"; and therefore, it cannot be exercised outside the boundaries of the monastery. To this difficulty, the advocate replies, noting that this argument proves too much and, therefore, proves nothing, because this concept of words does not apply only to the Abbot, but to any Bishop. For it has never been heard that all kinds of jurisdiction are granted to Bishops "outside the lands of the diocese..." This must always be understood in any jurisdiction that is granted, because a jurisdiction cannot

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be conceived of either of a Bishop without a diocese, or of a parish priest without a parish, unless a clause is found to the contrary. Perhaps, the advocate believes, there was added, for the Abbot of Cava, since this diocese of Nullius was then a new see among the neighboring ones; and therefore, as the pragmatists say, the Pontiff only indicated that the Abbot's jurisdiction is only as extensive as his territory. But the procurator notes more forcefully that the words in question cannot be interpreted as a restricted privilege, because those words "through the lands of your monastery" refer to other concessions - there "We grant—so that you and your successors may freely build churches, consecrate them with the cross, etc., through the lands of your monastery which you possess and hold." If things are compared with things that are similar, the advocate argues, these are special things, to which that particular addition "through the lands of your monastery" can be adapted. The words that follow, according to the advocate, confer the fullness of the Ordinary's jurisdiction, without any limitations.

[*Latin ed. p. 619*]

NULLIUS SS. TRINIT. CAVEN. 619 encompasses, implicitly, the right to administer confirmation, or matters pertaining to it, or even the place itself. In this part of the privilege, the advocate believes it is necessary to raise a question with this brief observation. The Pope granted all the power of the bishops to the Abbots of Cava de' Tirreni, except for only three rights, as noted at the beginning. Regarding what is to be defined in law within this triple exception, the Rota, in the cited Marsicana number 7, responds for the Abbot of Cava de' Tirreni: "In the same brief in which Urban transfers jurisdiction to the Abbot, the collation of the sacred orders, the preparation of the chrism, and the consecration of basilicas and altars are excepted, which, since they cannot be exercised except by those who have episcopal rights, from this exception of certain episcopal rights, it is inferred that all other rights of the same kind that were not excepted have been granted to the Abbots." Thus far, regarding the interpretation of the privilege according to the letters of Urban, which, the advocate says, did not make a specific mention of this sacrament. But other letters of Gregory XIV remain, in which not only is mention made of confirmation, but the right is granted "especially to confer the sacrament of chrism." Furthermore, the Gregorian privilege rests on the judgment of the Sacred Congregation, which had been sanctioned by Sixtus V on September 16th, in the sixth year of his pontificate; and that both Popes approved everything as if it were established in integral terms: "by approval, addition, supplementation, concession." Examining the text of the privilege, the advocate recalls in his narration that the Abbots perpetually "conferred the sacrament of chrism." Soon after, in judgments concerning this faculty, it is added: "the privileges, immunities, graces, faculties, and indulgences, especially the conferring of the sacrament of chrism, had been proven." And nothing is

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mentioned about conditions, except for one that follows: "provided that it had first been consecrated by a Catholic prelate, holding the grace and communion of that see." Where the concession is again defined, these words are read: "And also the sacrament of chrism by a Catholic..."

[*Latin ed. p. 620*]

620 "To confer the consecration upon the Most Holy Trinity Bishop of Cava, holding grace and communion with that See." These are the terms enumerated in the legal document. The advocate then proceeds to the facts of the case. First, he recounts that, by the Bull of Leo X, the territory of the Abbey was divided; and thus, a new Bishop, by law, acquired full jurisdiction within the city; but the Abbot retained all his ancient rights in everything that did not conflict with the establishment of the new diocese, through an agreement initiated with Cardinal of Aragon, with these words: "that through such an erection and assignment, no prejudice whatsoever shall be caused to the freedom and exemption which said Monastery presently enjoys, but rather that it shall enjoy all its rights, privileges, immunities, and dignities, even within the aforementioned boundaries of Cava, except only in those matters which conflict with the aforementioned jurisdictions and other concessions granted to the aforementioned cathedral church, and which do not tend to diminish them. Outside of the aforementioned territory, said Monastery shall remain, indistinctly and indifferently, in all things and in every way, as it is presently, and as if the aforementioned assignment and the present agreement had never been made." And all of this was confirmed by Leo X in his apostolic letters. Indeed, the advocate insists, this custom concerning the Abbot of Cava's authority extends beyond human memory. Two centuries hence, "the Abbot of Cava consecrated many nuns of the city of Salerno, with the license of the same Most Reverend Bishop." Then, a canon of the Church of Salerno, formerly a general vicar, and then a capitular, testified from that same diocese, "on several occasions, he granted permission to other Reverend Abbots for the time being to confer the sacrament of Confirmation upon noble nuns, and others of that city." The advocate further states that this custom was particularly prevalent in the diocese of Cava, in Salerno, in Murana (Muro Lucano), and in Amalfi. If one attends to the words of the delegations, then...

[*Latin ed. p. 621*]

From the archives of the Most Holy Trinity of Cava, number 621, it is stated that Abbots are permitted to administer the sacrament, and that this practice is frequent, as evidenced by a letter number 13 from the *Summarium*. "I communicate to Your Eminence, also in writing, all those faculties that I previously communicated to you" (n. 5). "Confirming what I have told you before, you will always be able to avail yourself of the faculty to

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administer said sacrament" (n. 9). "Forgive the continued annoyance that I cause you, etc." Furthermore, in the preceding year, "the Ordinary Abbot, having been invited by the Archbishop of Salerno, administered the sacrament of chrism in his private oratory to one of his subjects." Likewise, he administered it to thirty faithful in the private chapel of the Bishop of Cava, "by his invitation." The Abbot himself had noted in his letters: "It should be noted that the more recent invitations were not always made by letter, but more often only personally and verbally." The Pontiff himself, the advocate argues, although he does not consider the matter to be one to be definitively settled in law, nevertheless ordered that possession be maintained in the meantime, as a certain official, Prefect of public affairs, testifies: "When it came to granting Your Eminence the same faculty that her predecessor enjoyed, the Holy Father readily agreed to this request, and authorized her to administer the sacrament of Confirmation, even outside of her territory, with the consent of the Ordinary. This concession, however, is temporary, etc." This practice, the Abbot himself explains, was introduced for the benefit of the faithful, clarifying the conditions of the places. Then, the Prelate presented the testimony of a most skilled surveyor, from which it is clear that fifteen towns in that region are much further from the See of Sarno than from the monastery. Thus, it happened that the frequent visits of the Abbots attracted the Archbishops of Salerno to the nearby places in order to administer the sacrament to them for convenience's sake, since the Abbot's lodging and the cellarer's are "less than a mile from Salerno." Therefore, the advocate concludes, if this practice were to be prohibited, the faithful would suffer great loss, and the Abbots would incur offenses and accusations from the people.

[*Latin ed. p. 622*]

622 NULLIUS S. TRINIT. CAUSAE. It is true that in the years 1892 and 1894, the Abbots themselves may have brought this matter into disrepute by requesting this faculty from others, since they requested it from the Pontiff; however, the defender points out that Abbot Morcaldium denied nothing, indeed, he even requested that its use be confirmed "in order to quiet his conscience"; and the author cites the authority of the Rota in the aforementioned case, Marsicen: "Just as it cannot be inferred from a certain petition presented in 1620 by Pope Paul V, in which the Abbot requested permission to grant dispensations and to confer orders, that he did not previously have such permission; since this entire request was made for the good of others, and as is stated in the aforementioned petition, 'some scruples arise as to whether the Abbot can grant such dispensations, etc.'" Therefore, if this faculty was requested from the Pontiff in order to remove scruples, difficulties, and the occasion of litigation, it cannot be inferred from this that the Abbot confessed to lacking such a faculty. For the words spoken for the good of others and for greater caution do not prejudice

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[the matter]." The Rota, in Rec. dec. 212, n. 12, and dec. 320, n. 47, par. 6. OBSERVATIONS FROM THE OFFICE. First of all, in order to avoid any ambiguity, it is important to emphasize the great difference that exists between the Abbot's delegated power to confirm and the ordinary power of Bishops. For Bishops confer the Sacrament of Confirmation by the power of their order, whereas other, simpler priests exercise this act by the power of jurisdiction delegated by the Supreme Pontiff. On this matter, Benedict XIV, in op. De Syn. dioec., lib. 7, c. 5, n. 7 (middle), states: "...although to confirm is an act of the episcopal order, the firmness and validity of which does not depend on the will of the Pontiff, nevertheless, to delegate to a simple presbyter the power to exercise such an act, pertains rather to jurisdiction than to order, etc." The matter is thus explained by Cardinal D'Annibale (III, n. 282): "The ordinary minister of this Sacrament is the Bishop, and, by delegation (among the Latins, solely of the Roman Pontiff), any priest. The former confers this sacrament by the power of his order, primarily as a bishop; the latter, primarily by the power of jurisdiction; therefore..."

[*Latin ed. p. 623*]

In the matter of the Most Holy Trinity of Cava de' Tirreni, 625, it is valid here (for a simple priest), provided that he does not exceed the limits of his mandate, neither in territory, nor in persons, nor in manner: the Bishop, to all and everywhere, but if outside his own territory, he does not lack gravity." This consequence requires us to carefully consider our matter, lest the Abbot of Cava de' Tirreni, by confirming others in a foreign diocese, even with the permission of the Bishops, exceed the limits of his mandate and thus act invalidly. Therefore, a greater difficulty than that introduced by the words of the Constitution of Urban II, granting the power to use jurisdiction "within the lands of your monastery, which you possess and hold," arises. Otherwise, the Abbot who possesses territory free from the jurisdiction of any Ordinary, certainly had the power to confirm his own and others' subjects within his territory; but concerning others in a foreign territory, the matter is different. For the Abbot, being a simple priest, is an extraordinary minister of confirmation, only to be delegated by the Supreme Pontiff; but only for some grave reason. Indeed, Benedict XIV teaches in the aforementioned work, I, 13, chapter 15, paragraph 1: "Therefore, all difficulty is reduced to this, that a just reason and cause be presented, for which a dispensation or indulgence can be granted with merit. For the services of extraordinary ministers are not to be sought, where the Ordinary minister himself is able to act." With these considerations, the purpose was to examine the question: Does the Abbot of the Most Holy Trinity of Cava de' Tirreni have the right to confirm others' subjects in a foreign diocese with the consent of the Bishops?

RESOLUTION. The Sacred Congregation, after deliberation on Decem-

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ber 11, 1897, decided to respond: Negatively.

[*Latin ed. p. 624*]

624 FROM THE DOUBTS OF THE HOLY CONGREGATION regarding the doubling of the Mass. To the Fathers: After the Benedictine Constitution, it seems that the opinion of theologians is generally that a case of necessity for repeating the Mass on the same day is considered to exist in practice, when a priest has two parishes and the people cannot gather in one of them, nor is another priest available, besides the parish priest, who is able to celebrate Mass. Nor is a similar case considered dissimilar for this purpose, in which the parish priest, although not presiding over two parishes, or governing two populations so distant from each other that one of them cannot in any way be present with the priest celebrating due to the great distance of the places, or even if there is only one church in which the Mass is to be celebrated by the parish priest, the entire people cannot be present in it at the same time. Now, however, having recently been transferred to the Malacatean See, I found a custom by which some priests celebrate the Holy Sacrifice twice on feast days: once in a church in a certain city, where other priests are also present, and various temples, parishes, and monastic houses are established; and again in a suburban or rural oratory. Also, some priest performs the sacred rite repeatedly, either in the same city, and perhaps in the very same church in which another priest also celebrates. The reason given for this doubling of the Mass is the scarcity of priests; the convenience of distinct celebrations at distinct times, so that sufficient provision may be made for the faithful; and also the necessity of celebrating the parochial Mass in parishes, and the conventual Mass in monasteries. Therefore, since I have doubts about the lawfulness of this manner of acting, I turn to this Holy Congregation, and I will very reverently expound my doubts and requests: I. Is it permissible for a Bishop to grant a priest permission to celebrate one Mass in a suburban or rural oratory, and another in a city or place where other priests are also celebrating the Sacred Rite? II. Is it permissible for this Bishop to grant such permission to a priest to celebrate both Masses in different churches of the same city or place, in which other priests are celebrating, and this even if one of the Masses to be celebrated is in the very same church in which another priest offers the holy Sacrifice on the same day?

[*Latin ed. p. 625*]

FROM THE HOLY GENERAL COUNCIL 625 III. Does it behoove the Bishop, for the reasons stated and the causes presented, to confirm such a license and manner of acting, and also to extend it to similar cases, in other places and within his diocese, as necessity demands? While I, with due reverence, request and inquire this from this Holy Congregation, I earnestly wish all good and prosperity in the Lord to Your Eminences. MÃ¡laga,

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on the 25th of April of the year 1897. JOHN, BISHOP OF MÃ¡LAGA. RESPONSE OF THE HOLY CONGREGATION. Rome, To the Most Reverend Lord. Having received in this Congregation the requests presented by you in your letter of the 25th of April past, concerning the faculty of granting indulgences, the Most Reverend Fathers have decided to respond as follows: Regarding points 1, 2, and 3: It is not permitted; and the Ordinary, in as much as he judges it necessary in any of the aforementioned cases to grant a plenary indulgence, should appeal to the Apostolic See. And this is to be notified, as I now execute before Your Eminence, to whom I offer my greetings, in Rome, on the 10th of May, 1897. As a brother: A. CARD. DI PIETRO, Prefect. B. ARCHIEP. NAZIANZEN, Pro-Secretary. LETTER of the Holy Congregation of the Council to the Ordinaries of Italy concerning the observance of the Decree "Vigilanti." (1) Notwithstanding the clear norms of the Decree "Vigilanti," issued by this Holy Congregation on the 25th of May, 1893, and the severe penalties established therein to restrain the licentiousness of certain individuals, who used the pretext of Masses to facilitate exchanges with the clergy for ephemerides, books, and other goods: it has been noted, and in many places throughout Italy, that books and other goods are offered by booksellers and merchants, especially those who sell sacred articles, for the celebration of Masses. From which it necessarily follows that there are some who, in these matters... (1) See Vol. XXVI, 56. Acts, Vol. XXX. page. CCCLVIII. 40.

[*Latin ed. p. 626*]

626 FROM THE HOLY CONGREGATION, it is commanded that the obligations of Masses, together with the corresponding alms, be united, and that care for fulfilling these obligations be entrusted to the same individuals; therefore, those who openly violate ecclesiastical laws, especially the salutary Decrees *Cum saepe contingat* and *Nuper*, as well as the aforementioned Decree *Vigilanti*, incur the danger that the celebration of Masses may be neglected, or at least unduly delayed, and that alms may be squandered, except in cases of greater guilt or malice. Furthermore, from the repeated prohibitions addressed to merchants, it is clearly demonstrated that there are not a few priests who, either deceived concerning the true meaning of the law, or confident in supposed indulgences, readily lend themselves to this illicit commerce, not realizing that, according to the Decree *Vigilanti*, both the giver and the receiver of any payment for Masses are subject to the most severe penalties. Although this Holy Congregation has endeavored to provide assistance in the cases presented to it, these measures have not been sufficient to prevent and remedy this grave disorder, and it has therefore been deemed necessary to specially call the attention of the Ordinaries of Italy to this matter. Therefore, by this present letter, I implore Your Eminence to take care to warn the clergy of this diocese, and all others who might be involved in or complicit in this

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deplorable commerce, to abstain entirely from any further acts of this kind, lest they incur the penalties sanctioned by the Most Holy Pope Leo XIII in the Decree *Vigilanti*, and, with regard to the past, to provide for their own consciences, if it should be necessary; also, they should remember that if this Congregation has, in certain cases, shown leniency in order to facilitate the recognition of certain meritorious Catholic periodicals, each individual must refer to the Ordinary concerning the existence, duration, and manner of such indulgences, lest they incur whatever penalties may be applicable to each in this particular case for violating the law. I am certain that Your Eminence, with the zeal that characterizes you, will cooperate with the concern of this Holy Congregation, and will be able to eradicate any abuse that may still exist in this diocese, and to prevent any scandal in this matter, which is so grave, sacred, and deserving of the reverence of the faithful, as is the Holy Sacrifice of the Mass.

[*Latin ed. p. 627*]

From the Secretariat of the Holy Congregation of the Council, on this 28th day of August, 1897. A. CARD. DI PIETRO, Prefect. L. * S. B. ARCHIEPISCOPUS NAZIANZENUS, Secretary.

From the Holy Congregation of the Holy Roman and Universal Inquisition, Decree whereby the habitually granted faculties are declared not to perish with the death of the Religious, to whom they were granted. Thursday, 24th of November, 1897. In the General Congregation of the Holy Roman and Universal Inquisition, held by the Most Eminent and Reverend Cardinals, General Inquisitors, in matters of faith and morals, the aforementioned Eminent Fathers, after mature deliberation on the circumstances of the matter, judged it fitting to request: That His Holiness would deign to declare or establish that all special faculties, habitually granted by the Holy See to Bishops and other local Ordinaries, do not cease or be suspended due to their death or cessation from office, but are transferred to their successors, according to the form and within the terms of the decree issued by this Holy Congregation on 20th February, 1888, concerning matrimonial dispensations.

On the following Saturday, the 26th of November, 1897, during the customary audience granted to the Reverend Father, the Assessor of the Holy Office, after having reported all of these matters to His Holiness, Our Most Holy Lord, Pope Leo, by the Grace of God, the Thirteenth, His Holiness approved the resolution of the Eminent Fathers, and commanded that it be observed perpetually in the future, notwithstanding any contrary provisions.

I. CAN. MANCINI, Notary of the Holy Roman and Universal Inquisi-

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[*Latin ed. p. 628*]

628 FROM THE POSTULATE OF THE SACRED CONGREGATION OF THE INQUISITION concerning marriages to be entered into by impious men, who are called "free thinkers." Wednesday, section IV, on May 25, 1897. In the Report on the Status of the Church in Tabasco, presented to the Sacred Congregation of the Council on November 27, 1896, the following is read under number I. The Postulate: "In these regions, it frequently happens that impious men, commonly called 'free thinkers,' who desire to enter into marriage with Catholic women, are reluctant to make a prior confession, because, as they explicitly state, they have rejected the faith of the Sacrament of Penance in their hearts and have denied the entire faith. I ask whether these men, who are worse than infidels, ought or can be admitted to contracting marriage, with great detriment and danger to the Catholic woman and her family." When this Postulate was transmitted to this Supreme Sacred Roman and Universal Inquisition, in a General Congregation held by the Most Eminent and Reverend Cardinals, General Inquisitors, regarding the aforementioned matter, and after the vote of the Most Reverend Consultors, the same Most Eminent and Reverend Cardinals ordered that the following be answered: "It is to be requested of the Most Holy Father, that in the Decree of Thursday, January 30, 1867. On Thursday, the 26th of the same month, the Most Holy Father, through the powers granted to the Most Eminent Cardinal, Secretary of the Sacred Roman and Universal Inquisition, graciously granted the request." Furthermore, the aforementioned Decree of Thursday, January 30, 1867, reads as follows: "I. What is to be done when a baptized man, but who professes apostasy from the faith in words and in his heart, and who asserts that he does not believe in the Sacraments of the Church, requests marriage before the very Church, in order to satisfy the desire of the bride?" "II. What if the same man requests marriage while being addicted to a condemned sect or similar group, who, although he has not entirely lost the faith, refuses to renounce the sect?" "III. What if the same man requests marriage, who has not abandoned the faith, but has refused to profess it, and has refused to perform Christian duties?" The answer was: "Regarding I. Whenever there is a question of marriage between one party who is Catholic and the other who has defected from the faith to the extent that they have attached themselves to some false religion or sect, it is necessary to inquire..."

[*Latin ed. p. 629*]

From the Sacred Congregation 629, it is the customary and necessary dispensation, with the usual and known prescriptions and clauses. If the matter concerns a marriage between one party who is Catholic and the other who has abandoned the faith, but has not joined any false religion or

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heretical sect, and when the parish priest cannot in any way prevent such a marriage (to which he is bound to strive with all his might), and prudently fears that a grave scandal or harm may arise from denying the marriage, the matter must be referred to the Most Reverend Bishop, who, as he now has the appropriate authority, after examining all the circumstances of the case, may permit the parish priest to passively participate in the marriage as an authorized witness, provided that due care is taken for the Catholic education of all the children and other similar conditions." Regarding II. "A decree of June 28, 1865, must be given, which is as follows: Regarding marriages in which one of the contracting parties adheres to clandestine associations condemned by Pontifical Constitutions, provided that there is no scandal, the Ordinary, considering the circumstances, shall decide what he deems most expedient for the particular cases." Regarding III. "Consult the approved authors, and especially Benedict XIV, De Synodo Dioecesana, Book VIII, Chapter XIV, number 5." I. Canon Mancini, S.R. and U. Inquisition, Notes. What is to be understood by the expression "in the manner of a drink" in dispensations from natural fasting? Most Blessed Father. N. N., prostrate at the feet of Your Holiness, humbly explains that, due to a chronic illness, he obtained the faculty to take some refreshment, in the manner of a drink, before receiving Holy Communion. His illness having worsened further, and mere drinks not being sufficient, he supplicates Your Holiness to deign to allow him also some solid food for sustenance. That etc. Wednesday of the third week, in the fourth place, on September 7, 1897. In the General Congregation of the Sacred Congregation, held by the Most Eminent and Reverend Cardinals, concerning matters...

[*Latin ed. p. 630*]

630 FROM THE SUPREME SACRED INQUISITION, concerning faith and morals, to the General Inquisitors: After the aforementioned petitions have been presented, and with the vote of the Most Reverend Consultors, the same Most Eminent and Reverend Fathers have ordered that a response be given: "The intention is that when it is said 'in the manner of a drink,' it is understood that one may take broth, coffee, or another liquid food in which some substance is mixed, such as, for example, semolina, breadcrumbs, etc., provided that the whole does not lose the nature of a liquid food." On Thursday, the 10th day of the same month and year, during the customary audience given by the Most Reverend Fathers Assessors, the aforementioned matters concerning all of this were presented to His Most Holy Lordship, Pope Leo XIII, by the Most Holy Congregation of the Holy Office, and His Holiness approved the resolution of the Most Eminent Fathers.

I. CANON MANCINI, S.R. and U. Inquisitor. Regarding the burial to be given to amputated human members.

Most Blessed Father,

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The Reverend Mother Superior General of the Sisters of the Most Sorrowful Mother, whose motherhouse is located in Rome, devoutly explains that in the hospitals of the Congregation, which are located in North America, it happens every week that the arm or leg of one or another sick person is amputated. The Sisters have, in good faith, thus far buried such severed members, or, at the suggestion of a doctor, have burned them with fire. Now, the humble supplicant is anxious to know whether the Sisters have acted correctly in this matter, and devoutly asks whether such a course of action can be followed in the future, whether it concerns Catholic patients, or non-Catholic or infidels.

It may perhaps be noted that the burial of such members in some cemetery is often, both morally and sometimes physically, impossible. And God, etc.

On Wednesday, in the fourth place, on the 3rd of August, 1897.

In the General Congregation of the Sacred Roman and Universal Inquisition, held by the Most Eminent and Reverend Lords Cardinals, General Inquisitors in matters of faith and morals, after the aforementioned.

[*Latin ed. p. 631*]

FROM THE SACRED GENERAL INQUISITION, 631, after certain prayers having been offered, and with the vote of the Most Reverend Consultors, the same Most Reverend and Most Illustrious Fathers ordered that the following be written: Regarding the amputated limbs of heretics, the Sisters can safely continue their practice. Regarding the amputated limbs of the baptized faithful, they should, as far as possible, take care that they be buried in a sacred place. But if grave difficulties prevent them from being buried in a sacred place, they should not be troubled about the practice they have followed up to now. Regarding the cremation of limbs, they should prudently conceal it and obey the instructions of the physicians. And further: "It is desirable that, if possible, a small plot of land be designated in the garden of the house, for the burial of the amputated limbs of Catholics, after they have been blessed." On Thursday, the 6th day of the same month and year, during the usual audience granted to the Most Reverend Father Assessor of the Sacred Office, after an account of all these matters had been given to the Most Holy Lord Pope Leo XIII, the Most Holy resolution of the Most Eminent Fathers was approved. I. CANON MANCINI, S.R. and U. Inquisitor. "Whether Bishops who are empowered to grant dispensation from abstinence on days of great solemnity, can also do so regarding the days of Friday and Saturday of Advent." Most Blessed Father. By Decree of the Sacred Roman and Universal Inquisition of December 5, 1894, Your Holiness granted to the Ordinaries of places the faculty of anticipating, and for very serious reasons, of dispensing from the law of fasting and abstinence, when the feast of the principal patron or titular of the church falls on a Friday or

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Saturday, except during the time of Lent, the four seasons, and the Vigiliae throughout the year which are dedicated to fasting. Indeed, in Spain, by Decree of the Sacred Congregation on May 2, 1867, certain Vigiliae which were observed throughout the year were abolished, and the fast was transferred to the Fridays and Saturdays of Advent. Therefore, the undersigned Archbishop of Compostellanus humbly requests that Your Holiness would be pleased to declare whether the Ordinaries, by virtue of the Decree of December 5, 1894, can anticipate, or even for very serious reasons, dispense from the law of fasting and abstinence on the Fridays and Saturdays of Advent.

[*Latin ed. p. 632*]

632 FROM THE HOLY OFFICE, Thursday, December 15, 1897. In the general congregation of the Holy Office and the Universal Inquisition, held by the Most Eminent and Reverend Cardinals, Inquisitors General in matters of faith and morals, concerning the aforementioned doubt, and after the vote of the Most Reverend Consultors, the same Most Eminent and Reverend Fathers ordered that a response be written: Negatively. Subsequently, on Friday, the 17th of the same month and year, during the usual audience granted to the Reverend Father Assessor, after the Most Holy Lord Pope Leo, of Divine Providence, had been informed of all these matters by the Reverend Fathers, the Most Holy Father approved the resolution of the Most Eminent Fathers. I. CANON MANCINI, Notary of the Holy Office and the Universal Inquisition.

~===^&EÌ&<E>3*====~ FROM THE EIGHTH CONGREGATION OF STUDIES. Letter from the Most Eminent Cardinal Prefect of the Holy Congregation of Studies to the Bishops of Spain, in whose dioceses new pontifical institutions have been established.

Most Eminent and Reverend Lord: Now that, with God's favor, after overcoming considerable difficulties and without omitting any cares or studies, ten pontifical institutions have already been established through this Holy Congregation of Studies, in various regions of Spain, it is my duty, before the courses of the new academic year begin under the regulations, to communicate to Your Eminence certain matters, by order of the Supreme Pontiff, so that the intention of the Holy Congregation may be made clearer, and so that the most noble goals which the same Holiness has set for itself in the establishment of these institutions may be more fully attained.

I. As the month of October approaches, in accordance with the instructions issued by this Holy Congregation of Studies on June 30, 1896, the old system of studies ceases to be in force in the pontifical institutions established by authority of the Holy See, and the statutes drawn up by the

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same Holy Congregation for each institution come into full effect.

[*Latin ed. p. 633*]

From the General Studies Office, approved under number 633, together with the recent study plan outlined in the aforementioned Statutes. The firm will of the Supreme Pontiff is that for Theology, the "Dogmatic-scholastic" discipline, the *Summa Divi Thomae* should be used as the text; and for the "Dogmatic-positive" theology, authors of great renown should be preferred, who, in the manner of Bellarmine, treat questions with ample and profound reasoning. Hence, compendiums or summaries of theology are entirely prohibited, as is fitting for Institutes established in the university manner. Furthermore, a full and comprehensive exposition of Holy Scripture is recommended, so that Professors, drawing upon more recent and reputable authors (e.g., Patrizi, Cornely, and Vigouroux), divide the study of Holy Scripture into two parts: 1. Holy Scripture encompasses Critical Hermeneutics and Exegesis; 2. An Introduction to the entire Scripture, and commentaries on certain books of Holy Scripture. For the faculty of Canon Law, compendiums are also prohibited: but Canon Law must be expounded in the very sources, that is, in the books of Decretals and subsequent Constitutions of the Popes, or Decrees of Councils, without omitting the principal questions of civil law, which should be presented to the students as appropriate: hence, it is strongly recommended that, in addition to the two lectures per day of the canonical text, students of the second and third years, when time permits, and indeed, when sufficient time is available, have at least twice a week a lecture on Roman and patristic law, and on the history and philosophy of law. With regard to Scholastic Philosophy, authors of greater renown should be presented, who follow the scholastic systems and doctrines of the Doctor Angelicus and fully expound philosophical questions. Hence, at least once a week, a lecture should be given by Professors on the *Summa Philosophica* or on the *Quaestiones Disputatae* of the Angelic Doctor. A solid foundation must also be provided for students in related disciplines of rational philosophy, the most important parts of which should be given to them, as is fitting for clerics. II. Meanwhile, the Directors and Masters of the Institutes should keep in mind the prescribed study plan, which is intimately connected with the privilege of conferring the degree, so that, unless it is faithfully observed and diligently put into practice, together with all that is prescribed in the Statutes, the privilege itself, as is evident, may be considered suspended, and the degrees conferred shall be considered entirely null and void.

[*Latin ed. p. 634*]

634 FROM THE SACRED CONGREGATION OF STUDIES III. The dispositions previously granted to clerics who have not completed their stud-

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ies at the Institutes will cease entirely with the beginning of the new academic year, so that the law of two years, which has been decreed by this Congregation of Studies on several occasions and always confirmed by the Supreme Pontiff, not only for Spain, but for all Catholic Universities established throughout the world, must be strictly observed, except in very rare and extraordinary cases, in which only a dispensation will be granted by the Sacred Congregation. However, during this initial transitional period, that is, from the month of October of this current year, 1897, until the entire month of September, 1898, so that no harm is done to the students and their families, the Rectors are authorized to admit students who have properly completed the course in Sacred Theology in all the Seminaries of Spain to the examinations for the license: I say Sacred Theology alone, and not Philosophy or Canon Law; for in these two disciplines, it is not certain that the students have been sufficiently instructed according to the ancient method of studies, as it is lawful to suspect in Sacred Theology, for which study the same method in the Seminaries still in force prescribes a solid period of seven years. IV. For the degrees properly conferred in the nine Pontifical Institutes, mutual recognition and validity must be granted, so that degrees obtained in one Institute are to be considered valid by the others. Indeed, the firm will of the Supreme Pontiff has commanded that, in no way, should it be departed from, so that the degrees which Spanish clerics have obtained here in Rome or elsewhere at Catholic Universities or Pontifical Institutes are to be considered entirely valid in Spain, and that they do not require any new canonical validation or confirmation, nor should any new expenses or taxes be levied for their validity. The abuse of revalidating such degrees, which has been reported to have occurred in some Seminaries, commonly called "Central" Seminaries, is entirely disapproved and condemned by the Holiness, especially for the students who come here to Rome to serve the Church at the Spanish College, to which a mortal wound would be inflicted at the very beginning by those whose care, studies, and expenses are most necessary for the College itself to flourish day by day, with young men of talent, diligence, and piety, under the auspices of the Holy Father, and with which the entire City rejoices greatly.

[*Latin ed. p. 635*]

FROM THE SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH, 635 V. The purpose of this Sacred Congregation is that new Pontifical Institutes should not only be considered a work for the Archdioceses in which they are established, but rather a common undertaking and work for the entire ecclesiastical Province and the Suffragan Dioceses, for the benefit of the clergy, to whom a center is available in various and mutually distinct regions for pursuing higher studies. Therefore, His Holiness has wished to earnestly commend to the Archbishops and Bishops, through this Sacred Congregation, that in the

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meetings held each year to resolve diocesan affairs, the most excellent work of studies should not be neglected; and the ardent desire of the Pope is that, after mutual consultation, the Pastors should strive with all their care to promote, with suitable provisions, the dignity and growth of the Institutes. May God, and the Immaculate Mother of the Word, and all the Patrons to whom the Institutes are dedicated, obtain through fervent prayers that this may be achieved from the very Source of Wisdom and Truth, so that the labors undertaken and still to be undertaken by this Sacred Congregation, in association with the action of the Archbishops, may be crowned with success, and that the seeds may be filled with abundant and solid fruits. With this firm trust and hope, I am grateful to express the particular esteem of my sentiments to Your Eminence, to whom I pray for all good things and blessings from the Lord. Given in Rome on the 15th of September, 1897. F. CARD. SATOLLI, Prefect. L. * S. JOSEPHUS MAGNUS, Secretary. FROM THE SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH, Concerning the Eastern Christians in North America. The Roman Church, with its apostolic charity and supreme authority, has diligently and constantly exerted itself to defend and strengthen the Pastors and the rights of the Faithful. Therefore, it recognizes the authority of the Eastern Christians residing in North America to practice their own rite, while at the same time subjecting them to...

[*Latin ed. p. 636*]

636 From the Sacred Congregation for the Propagation of the Faith, due consideration was earnestly recommended to the Latin Ordinaries. Having these two conditions fulfilled, in recent years, it has published several very useful regulations, with which it seeks to promote the good of these faithful and to foster piety. However, it is regrettable that many of the Eastern [rite] faithful remain almost entirely without spiritual assistance, due to the lack of priests of their own rite. Therefore, in order to be able to meet their needs, this Sacred Congregation, moved by the prayers of many bishops (while firmly maintaining the prescriptions contained in the circular letters published on October 1, 1890, and April 12, 1894, especially with regard to sending worthy and celibate priests to America, and with regard to the observance to be maintained towards the Latin Ordinaries), decreed the following three things, with the approval of the Most Holy Lord Pope Leo:

I. To the Eastern faithful who come to North America, it shall be permitted, if they so desire, to conform to the Latin rite; however, upon their return to their homeland, they shall return to their own rite.

II. To those Eastern faithful who establish a true and stable domicile in North America, permission shall not be granted to pass over to the Latin rite, unless permission is obtained in each case from the Apostolic See.

III. In the ecclesiastical provinces of North America, in which there are many faithful of the Ruthenian rite, the Archbishop of each province, after

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consulting with his suffragan bishops, shall appoint a Ruthenian priest who is worthy and of good character, and if there is a lack of such a priest, a Latin rite priest who is well-disposed towards the Ruthenians, who shall exercise oversight and guidance over the people and clergy of that rite, under all circumstances, subject to the local Ordinary, who shall grant him the faculties that he judges to be expedient in the Lord. Contrary provisions notwithstanding.

Given in Rome, from the offices of the same Sacred Congregation, on May 1, 1897.

MIECISLAUS CARD. LEDOCHOWSKI, S. R. C., Prefect.

L. S. ALOISIUS VECCIA, Secretary.

[*Latin ed. p. 637*]

637 FROM III. THE APOSTOLIC PENITENTIARY: A QUERY concerning the dispensation of the impediment of consanguinity.

Most Blessed Father,

I recently wrote to the Sacred Penitentiary that Charles D..., aged 26 years, and Julia Ludovica M...., aged 23 years and 6 months, inhabitants of the diocese of N..., having prostrated themselves before the Most Holy Virgin, desired to contract a legitimate marriage, and humbly implored a dispensation from the impediment of consanguinity in the second degree of collateral relationship. I presented the following reasons: the age of the woman being almost advanced (namely, 23 years and 6 months), and her condition as an orphan of both parents.

Indeed, the Sacred Penitentiary, on April 19th of the current year, granted the Ordinary of N... the faculty to grant a dispensation, for the following reasons: the age of the woman being 24 years, and her condition as an orphan.

Therefore, I humbly inquire whether I can, nevertheless, grant a dispensation to the petitioners, even though the woman has not yet completed her twenty-fourth year. And God...

The Sacred Penitentiary, in response to a letter from the Ordinary of N... dated April 23rd of this year, concerning the question of whether the aforementioned Ordinary can execute the decree of dispensation for the marriage of Charles D... and Julia Ludovica M..., given that among the reasons cited is the age of the woman being twenty-four years, although the woman, as stated, has not yet completed her twenty-fourth year, responds: Since another cause for granting a dispensation exists, nothing prevents the aforementioned decree of dispensation from being ordered for execution.

Given at Rome, from the Sacred Penitentiary, on April 28, 1897.

A. CARCANI, -S. P. Reg. I.

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PALICA, S. P. Substitute.

[*Latin ed. p. 638*]

638 FROM THE RESPONSE OF THE HOLY CONGREGATION FOR RITES concerning various methods for preserving the Holy Chrism in the Tabernacle. After having examined and considered the various methods for preserving and closing the Tabernacle containing the Sacred Chrism with the Sacrament of the Holy Eucharist, devised by the Priest Salvatore Barbara for greater security and protection, and presented to the Congregation for Rites for special approval, the aforementioned Holy Congregation, in a particular meeting held on this very day, after hearing the report of the undersigned Secretary, and also the opinion of the Liturgical Commission, decided to respond as follows: The invention is to be commended, but the matter, in the case and for the purpose in question, pertains to the Local Ordinaries. And thus it responded, on March 18, 1898. L.) $i S. D. PANICI «S. R. C. Secretary. DIOCESES OF ITALY: The Bishops of Italy, over the suppressed diocese, enjoy the same privileges, etc., until they administer it. The Most Holy Pope Leo XIII, having considered the particular circumstances, with a special grace at the discretion of the Holy See, has graciously granted that the Most Reverend Bishops of the Italian Region, who, having been transferred from their own diocese to another, either residential or titular, and who retain the temporary Apostolic administration of the former diocese, may, during such administration, enjoy all the honors, privileges, indulgences, and faculties that would belong to them as their own Ordinary Bishops. Contrary to anything to the contrary notwithstanding. On June 25, 1897. C. CARD. MAZZELLA, Bishop of Praenestinus, S. R. C., Prefect. L. % S. DIOMEDES PANICI, S. R. C., Secretary.

[*Latin ed. p. 639*]

FROM 639 S. G. RITUUM MELITEN.: Doubts concerning the privileges of the canons. The Dignitaries and Canons of the Cathedral Church of Melita, in the preceding year, by the benevolence of Our Most Holy Father Leo XIII, Pope, were declared to be Protonotaries Apostolic ad instar. Since certain doubts have arisen, both concerning the oath and the profession of faith prescribed in the Constitution of Pope Pius IX, of blessed memory (1), which begins "Apostolicae Sedis officium," and concerning the privileges with which they enjoy, as such; hence, the following doubts were proposed to the Congregation of Sacred Rites for resolution, namely: 1. Whether all of them ought to make the oath and profession of faith, according to the terms of the aforementioned Constitution, and if so, before whom? 2. Whether, since the title of Protonotary Apostolic ad instar has been conferred upon the entire body, the aforementioned Dignitaries and Canons can perform pontifical functions outside the Cathedral and in the absence of the Chapter? 3. Whether they enjoy the Indult of a private oratory? 4. Whether a

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Canon retains the title, who has resigned the office of Canon? And the Sacred Congregation itself, after hearing the report of the undersigned Secretary, and after also considering the opinion of the Liturgical Commission, and after careful deliberation, decided that the doubts proposed should be answered as follows: The Constitution of Pope Pius IX, of blessed memory, which begins "Apostolicae Sedis," dated the 4th of September, in the year 1872, must be observed, especially concerning number XXIII. And thus it was written, on the 18th of March, 1898. CAMILLUS CARD. MAZZELLA & R. C. Prefect. L. S. DIOMEDES PANICI S. R. C. Secretary. MEXICO: Doubt concerning the Octave of the Most Holy Trinity. The Most Reverend Lord Prosper Joseph Mary Alarcon, Archbishop of Mexico, humbly requested a resolution from the Sacred Congregation of Rites concerning the following doubt, namely: In the Archdiocese of Mexico, by the gracious concession of Pope Pius VI, dated March 5th, in the year 1776, the Octave of the Solemnity of the (1) This Constitution is referred to in Volume VII, page 85.

[*Latin ed. p. 640*]

640 FROM the decrees concerning the feasts of Christ, it enjoys the same privilege as the Octave of the Epiphany of the Lord, and, by another apostolic concession of Pope Gregory XVI, through the decree of the Sacred Congregation of Propaganda Fide dated February 20, 1831, the Feast of the Most Holy Trinity is to be celebrated under the double rite of the first class with an Octave; it is asked: "Considering the aforementioned concessions of the Most Holy Popes Pius VI and Gregory XVI, should the Octave of the Most Holy Trinity cease in the Archdiocese of Mexico, when the feast arrives with the Octave of the Most Holy Body of Christ?" And the same Sacred Congregation, after hearing the report of the undersigned Secretary, and also the opinion of the Liturgical Commission, decided that the proposed question should be answered with a "Yes." And it wrote and ordered that it be observed. March 5, 1898. CAMILLUS CARDINAL MAZZELLA, Prefect of the Sacred Congregation. L. * S. DIOMEDES PANICI, Secretary of the Sacred Congregation. MEXICO: a question regarding the Preface of the Most Holy Trinity. The Most Reverend Archbishop of Mexico, in order to resolve a controversy among some of his priests in his Archdiocese, humbly requested a solution from the Sacred Congregation of Rites to the following question: "In the Archdiocese of Mexico, on a Sunday within the privileged Octave of the Most Holy Body of Christ, may the Preface of the Most Holy Trinity be said, as was granted by the benevolent concession of Pope Gregory XVI, both for the Feast of the Most Holy Trinity, with its Octave, and for the recitation of the Preface of the same Mystery on that Sunday within the Octave of the Most Holy Body of Christ? This concession, however, was made without any mention, either in the petition or in the decree, of the previous concession granted to the same Archdiocese by Pope Pius VI, concerning the privileged Octave of the Most Holy Body of

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Christ, which is similar to the Epiphany?" And the same Sacred Congregation, after considering the report of the undersigned Secretary, decided that the proposed question should be answered with a "No," according to the decree issued in Mexico on March 5, 1898. And it wrote thus, on the 26th day of the same month and year. CAMILLUS CARDINAL MAZZELLA, Prefect of the Sacred Congregation. L. * S. DIOMEDES PANICI, Secretary of the Sacred Congregation.

[*Latin ed. p. 641*]

641 FROM THE HOLY CONGREGATION OF THE COUNCIL OF GENOA, REGARDING JURISDICTION, July 8, 1897. Session 25, chapter 15, Concerning Reforms. SUMMARY OF THE CASE. The most noble family of Fieschi originated from the humble place of Lavagna, in the Archdiocese of Genoa; from this family was born Innocent IV, Pope, who in the year 1243 ascended to the highest offices of the Church. This Pontiff, in order to honor his family with the greatest privileges and to bind it more closely to the Holy See, by a bull – namely, *Etsi universalis* – subjected the Churches and other local benefices to the immediate authority of the Apostolic See, and established a right of patronage for his nephews in these, "excluding entirely women and those descended from them." In the present controversy, the question is raised whether the right of patronage still pertains to the family of the Counts of Fieschi with regard to the archpriestship of Saint Mary of Rivarolo, and whether this matter is now being raised concerning other benefices. The reason for this doubt is not one, but two; first, it is debated whether the right of patronage should be granted to a certain woman, namely Marina de Sanfront, widow of Count Thellung de Courtelary, niece of Cardinal Hadrian, although Pope Innocent excluded women and those descended from them, namely, by calling those related by blood to the institution of the right of patronage, a privilege. Secondly, it must be determined whether the bull of Innocent IV – namely, *Etsi universalis* – still affects the benefice of the archpriestship of Saint Mary of Rivarolo, rendering it subject to the right of patronage. In the Bull, mention is made of a certain prior of the Church of Saint Mary, but in no way does it appear that this term includes the Church of Saint Mary of Rivarolo. Acts, Volume XXX, page 359, line 41.

[*Latin ed. p. 642*]

642. IANUEN. Nevertheless, the Counts of Fieschi have exercised, until our own days, the right of patronage over this Church, from the time when Innocent VIII, in the year 1485, augmented the endowment of the Church of Saint Mary of Rivarolo by uniting one of the prebends of the collegiate Church of the Holy Savior of the place – Lavagna – to it. From this addition, the title of patronage is repeated in said Church, to which, it is asserted, the burden of the annexed benefits has been attached, namely, the servitude of

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patronage. – Meanwhile, the assets of this prebend have been subjected to usurpations and litigations. Indeed, due to the ecclesiastical laws abolished at the end of the last century by the French Government, the revenues of the prebends of the Church of the Holy Savior of the place – Lavagna – were so diminished that it was no longer possible to maintain clerics in them, and the Counts of Fieschi, by convention of the year 1798, granted the use of said Church for sacred functions to the parish priest of Saint Savior, commonly called "il vecchio" of that place – Lavagna. However, the assets that remained from the confiscated benefits of the Church of the Holy Savior were included in the patrimony of the Counts of Fieschi, which was acquired by Count Alexander Negri de San Front, nephew of Cardinal Hadrian, and son of Mary Magdalene Fieschi, and father of the actress. This heir, under the pretext of laws promulgated in the year 1855 in the Kingdom of Piedmont, by which patrons were granted permission to add all assets, hitherto constituting the endowment of the patronage, to their own, seized these assets for himself in the civil courts, and did not hesitate to usurp the revenues of the archpriestal Church of Saint Mary of Rivarolo, although this was done with imprudence. – Indeed, the aforementioned laws that were passed were not intended to confiscate the assets of parishes, but rather to leave them intact. Therefore, relying on civil law, the archpriest of the Church of Saint Mary of Rivarolo descended into the arena of judgment, and after several trials, prevailed, restoring his Church to its former state, with all damages remedied. Alexander Negri, father of Marina, died in the year 1884; and

[*Latin ed. p. 643*]

JANUARY 6. The feast of Saint Mary of the River of Martyrs, and also, by virtue of an immemorial right, the presentation to the said Archpriestly benefice. The patron notes that the controversial union pertains to the fact that the inferior benefice is accessory to the superior, and that the form of union is one which is said to be less principal. In this case, the superior benefice, or Church, is called the *matrix*, and through this union, the title of the inferior benefice, or Church, which is held as a part of the other, accessory to it, ceases. Hence, the title of the principal benefice, or Church, is preserved, and the privileges or rights of the annexed benefice are maintained in those matters in which there is no opposition to the rights and privileges of the principal benefice. However, in the case of opposition, when the greater draws the lesser to itself, the rights and privileges of the greater benefice prevail. Therefore, the advocate argues that the Archpriestship of Saint Mary of the River of Martyrs, to which the care of souls is attached, drew to itself the canonry of Saint Saviour and the commendatory benefice of Saint Lazarus, and that, having not been able to lose its own freedom, it granted freedom to the benefices by virtue of the very act of union. The advocate notes that this is so evident that the Supreme Civil

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Tribunal itself has explicitly declared it. Therefore, the patron concludes that this union was one that extinguished the title, and hence the right of patronage has vanished from such a union, because the principal, or parish, benefice was of free collation. Then, the advocate, descending to another point of contention, contends that the advocate for the opposing party cannot invoke prescription, or immemorial usage, of the right of patronage. The advocate states that, in fact, until the death of Cardinal Fieschi, a noble family, exercised the right of presentation. But the Cardinal passed away in the year 1858. After his death, the Archpriestly benefice was again and again conferred as free, without opposition, without contradiction. From this, the advocate deduces a new prescription, which...

[*Latin ed. p. 644*]

644 IANUEN. "With whatever signs it may be, considering the former prelate of the collegiate church." Therefore, today the question concerns the Church of Saint Mary of Rivarolo, to which the Oratrix, a relative of the Counts of Fieschi and heir to their patrimony, claims the right of patronage. For, when the parish of Saint Mary of Rivarolo was vacant in the year 1895, the Countess de Santfron approached the Archbishop of Januen, so that she might present a cleric to the vacant church. But the Archbishop denied that this right belonged to her any longer; therefore, the Oratrix appealed to the Sacred Congregation, in order to defend her rights, and therefore the controversy is presented under this formula of doubt: "Whether the right of patronage is established in this case."

Synopsis of the Dispute

DEFENSE OF THE ARCHBISHOP. The advocate, who defends the freedom of the Church in the name of the Ordinary, first argues that, due to the lack of a title of endowment or foundation, the Archpresbytery of Saint Mary of the Martyrs should be declared free for collation. He states that no document has been presented from which such a right can be proven, and he recalls the decree of the Council of Trent, Session XXV, Chapter IX, in which it is decreed that just as it is not right to abolish legitimate rights of patronage, nor to violate the pious intentions of the faithful in their institution, so also it is not permissible that, under this pretext, ecclesiastical benefices be reduced to servitude. And in order that due consideration be observed in all things, the Holy Synod decrees that the title of the right of patronage must be shown from a foundation or endowment by an authentic document, and by other legal requirements, adding that in those cases in which this right is usually sought rather through usurpation, fuller and more exact proof must be required to demonstrate the true title, and that immemorial length of time is not sufficient proof otherwise.

On the contrary, the Oratrix argues that the right of patronage can be deduced from the fact of the union of the Canonry of Saint Salvator and

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the Rectory of Saint Lazarus, to the Archpresbytery.

[*Latin ed. p. 645*]

In Genoa, a daughter, deeply grieved by the injustices perpetrated by her relative and the violation of ancestral patrimony, resolved to atone for the harm done to the Church, as far as she was able, by offering compensation. Having obtained permission from the Holy See, she sought to have her offering accepted. To fulfill her pious obligations, which burdened her inherited property, she paid bonds amounting to 176,276. Of these, 60,000 bonds were offered to the Archbishop of Genoa for him to allocate to pious works at his discretion. The entire matter was presented to the Most Holy Congregation by the Ordinary for its approval. The response, dated April 27, 1885, stated: "The Most Holy Fathers, with paternal benevolence, grant the requested favor in all respects, with the addition of the condition that the obligations pertaining to the celebration of Masses, for which the petitioner has already paid the sum of sixty thousand bonds, be faithfully fulfilled according to the will and judgment of the Archbishop, etc." From this offered sum of bonds, 44,000 were allocated to the Church of Saint Mary of Rivarolo, in execution of a judicial sentence, as has been stated. Furthermore, the petitioner requested of the Most Holy Prince that the Church of the Holy Savior and the adjacent garden, as well as the privileges of the ancient prebend, be granted to the parish priest of the Church of the Holy Savior, known as "il vecchio." However, this request was rejected with a rescript dated February 2, 1892: "Considering the particular circumstances, provided that the petitioner permanently grants the church and its appurtenances to the parish, and undertakes other actions as requested, the Most Holy Fathers, with paternal benevolence, grant the favor of an honorary patronage, without any right of nomination to the parish, which, therefore, whenever it becomes vacant, shall be filled according to the laws, so that provision may be made for it in the future, at the discretion and judgment of the Ordinary, who shall also have the power to elevate the parish priest of the Holy Savior to the dignity of a meritorious prebendary, excluding, of course, any rights or privileges."

[*Latin ed. p. 646*]

646. Concerning the right of patronage, it is alleged that it originated from a certain circumstance and that its previous exercise was invalid, and that it can no longer be validly invoked due to a prescription that has been in force since the death of Cardinal Hadrian. Finally, the advocate notes that all Doctors agree that the right of patronage can be lost through disuse over a long period of time, provided that, in the meantime, the Rector of the Church has been appointed at least twice without presentation. See Abbot Consil. 106, column penultimate, book 6. - Barbosa, in chapter 7, from the Letters on the right of patronage, number 254, and others, extensively. The

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reason, says Reiffenstuel, in book 3, Decrees, title 38, number 138, is that, just as others can prescribe against a patron and his heirs, so too can the Church itself. Furthermore, the advocate argues that this prescription regarding the free granting of the Archpriestly benefice must be considered with greater weight. In the Constitution *Etsi universalis* of Innocent I, in which the right of patronage over the Collegiate Church of St. Saviour, in favor of the noble Counts of Lavagna, was reserved, it was stipulated that the presentation was to be made in a certain manner, namely, that the presentation of the Prefect was to be made to the Roman Pontiff for canonical institution, and the presentation of the Canons and other clerics was to be made to the Prior of St. Lazarus, the Prefect of St. Saviour. Since the Collegiate Chapter of the Church, and its Prefect, and the Priory of St. Lazarus, have been destroyed, the right of patronage for the presentation of the Canons must also have lapsed, since it cannot be exercised as the very law of foundation prescribed. Turning to another part of the advocate's argument, he seeks to demonstrate that the right of patronage cannot in any way belong to the advocate, even if it were still in force; and he brings forward these decretorial words from the Constitution *Etsi universalis*: "that the aforementioned nobles and their descendants, descended from them through the male line, shall always be patrons of the aforementioned churches, so that they shall be included in all things, excluding women and their descendants." The presentation of the Prefect and Canons of the same Church of St. Saviour "clearly pertains to them."

[*Latin ed. p. 647*]

JANUA, 647. The advocate, excluding women and those descended from them, insists that the words expressly stated by the Pontiff cannot be overlooked, and that they establish a law that cannot be disregarded, since they clearly demonstrate the intention of the legislator. For, the advocate continues, the Constitution *Etsi universalis*, which was issued during a time when the feudal system was strictly in force, excludes women and their descendants for reasons that Mantica (De tacit. et amb. lib. XXIII tit. XIII) explains: "Just as women are regularly prohibited from succeeding in a fief, so too are their male descendants understood to be prohibited... because sons lack the principle that produces, and because a woman is not the suitable agent for transmitting [the inheritance]... Therefore, when the mother is excluded, all those who are born of her are excluded, for everything that comes from the root follows the nature of its own parent." With these premises established, the advocate argues that it is futile to examine the question from the opposite perspective, whether the right of patronage, ultimately, becomes hereditary within a family. The advocate notes that this is not a question of a right of patronage reserved by construction or endowment, but of a right of patronage derived from a privilege, or at least with a mixture of privilege and tribute. For, the advocate herself admits

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in a written document that the Collegiate Church of *San Salvador* was established by Pope Caelestinus in the year 1193 without reservation of the right of patronage; then, by Innocent IV, the right of patronage was established by reason of a privilege. But even with regard to a right of patronage truly derived from construction or endowment, the advocate argues, citing De Luca, *Discipline*, 33, no. 3, on patronage: "Although Geminianus, with some followers, believes that if a reservation of the right of patronage is made in favor of a family, after that family is extinct, that right ceases, and the church becomes free; nevertheless, this opinion is more commonly rejected, and today the contrary opinion is absolutely accepted, as Anear, cons. 81, and Calderin, cons. 4, on patronage, state: that it passes from the last of the family to his heirs, even if they are outsiders, and thus becomes hereditary, unless the words expressly stated, or other words or circumstances, indicate a different intention of the founder."

[*Latin ed. p. 648*]

648. Regarding the inheritance, the ordinary, having approved this law, refers to "Seraph," decrees 364, number 3, and 385, number 1, paragraph 1, the record of Clusina, the benefice of July 5, 1649, and the case of Bichio. Because, on the contrary, the words of the Pontiff are understood by the Orator to mean that women are excluded from the inheritance only among agnates, the advocate replies that this interpretation gives explicit force to the words of the Pontiff, who could not have spoken more clearly in order to reserve the right of patronage only for agnates; therefore, he concludes that the interpretation presented by the opposing party is too subtle and undermines the dispositions of the law, leading to error. Finally, the advocate argues that the actions were undertaken by the father of the Actress so that the right of patronage, even if acquired, would certainly be lost. It is established that the Count of Sanfront claimed the property of the Church, invoking the favor of the laws against usurpation. It is established, the advocate insists, that the Actress inherited a part of the property of the Church, which constitutes the right of patronage, and which she still possesses at the present time. The decrees of the Holy Council of Trent concerning those who usurp the property of the Church (Session XXII, chapter XI, concerning reforms) are clear in this matter: "But if the patron of the same Church is also the patron by right, in addition to the aforementioned penalties, he himself shall be deprived of [his rights]." Furthermore, regarding the agreement made by the Oratrix with the permission of the Holy See, the advocate points out that the agreement requested was made with the intention of avoiding ecclesiastical censures, and not with the intention of restoring ecclesiastical benefices with the reservation of the right of patronage. Hence, the Actress herself confessed that she had lost the right of patronage, and again requested that it be granted to her by grace, through the benignity of the Apostolic See.

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DEFENSE OF THE ORATRIX. On the contrary, the advocate of the Oratrix, in order to vindicate the right of patronage for his client, argues that the right of patronage was, in fact, a doubtful inheritance, and that agnatic inheritance, with the exclusion of women, existed in the gens Fieschia as long as the male line survived. This was demonstrated in the year 1858, at the death of Cardinal Hadrian Fieschi. The advocate believes that this is how the will of the Founder, Innocent IV, should be interpreted, because in the right of patronage, even women succeed through the male line, whenever the male line has ceased.

[*Latin ed. p. 649*]

In the year 649, the rights were diminished. This is attested by Piton, *De Cont. Patr. All.*, 37, number 7. There, he writes: "Having established from the aforementioned that we are speaking of a hereditary patronage, and without any mixture of hereditary quality, it follows that it pertains in half to Mary, daughter of the founder, and in the other half to Anne, because these two are the only ones remaining of the descendants of the founder, according to the opinion today, which is not disputed, that in the law of hereditary patronage, women are also included by succession, or in the absence of men; *Rota etc.*" Because it is objected that this passage cannot be admitted whenever it is clearly established that there was contrary will of the founder, the advocate replies that this is true, when it is established that the will of the founder excluded not only women because of men, but the women themselves, even in the absence of men. This was defined by the *Rota* in decree 667, number 9, part 18, volume 2, *Rec.*. There, it is written: "Even if women were excluded from the beginning, who are never presently mentioned, still such an exclusion must be understood, as long as there are men from the same family, but if they are lacking, Livia, even if she is a woman married in another family, as long as she lives, retains agnatic kinship, and is capable of hereditary patronage." However, the advocate insists that the decree of Innocent refers to the time while agnatic kinship is valid, and it does not signify anything about other cases of the absence of men. There, it is written: "We decree that the aforementioned nobles and their successors, descended from their own gender through men, shall always be patrons of the aforementioned churches, so that it applies to all of them, excluding women and their descendants entirely... the presentation fully pertains to them." According to the advocate, the context of this sentence is: "Descendants who are men are always patrons, so that women are excluded." Therefore, the advocate concludes that women are removed because of the men, whenever it is appropriate to prefer agnatic kinship. The advocate argues that two considerations of equity favor this

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subsidiary succession of relatives. First,

[*Latin ed. p. 650*]

650. Concerning the interpretation of successions in the law of patronage, which is established and favorable, as the Rota observed in the case of the Fermo chaplaincy, June 1, 1751, § 4, in the matter of Mattei: "This restriction is contrary to the more favorable nature of the law of patronage, which, as if indifferent, relaxes the bonds, and operates so that, considering only canonical equity, the words of the foundation should be understood in their natural sense, and as widely as possible, so that, for the purpose of understanding, both relatives and those related by affinity should be included." Another reason for equity is that it is not relatives or others added to the succession who oppose, but the Bishop; and the opposition is not to preserve the Pope's constitution, but to extinguish it; which, Piton declares, is entirely abhorrent to the equity of the Church, *Discip. eccl., all. 77, no. 21*: "In the law of patronage, by the strictness of the law, women are not included, and are only admitted subsidiarily, from a certain equity, when it is a question of a competition from outsiders, in which the patronage would be hereditary, according to the form of constitution 81 of Ancharani, or to exclude a substitute who is also an outsider, or to prevent the benefit from acquiring freedom, in the case of those called who are lacking in qualifications. In these cases, it would seem unjust not to admit female relatives because of outsiders." Because, the patron argues, it cannot be presumed that the Pope, in the absence of males, so hates the offspring connected to him by blood, as to prefer an ordinary collator, as the Rota notes in decision 7, in the matter of Kaunitz: "This should be understood more readily, because the controversy does not arise with a relative, but it is a question of introducing freedom to the benefit, and therefore, both in following the presumed intention of the testator, and in order to attract founders to similar pious dispositions, the words must be interpreted in a broader sense to favor the descendants of the founder, and his relatives by blood, to the exclusion of outsiders and the ordinary collator: Lambertin. Rota, etc." While the Archbishop contends, for the sake of defending the freedom of the Church, that gentile patronage is based on the bones of men.

[*Latin ed. p. 651*]

IANUEN. 651, so that, contrary to what the elevated Cardinal believed, it would perpetually vanish, the advocate presented the most common theory used in the forum of Ancharani, namely, patronage, which arises when a family is entirely lacking, and which, in this case, is granted, but the advocate maintains that patronage does not cease to exist, but "passes to the heirs, both by will and by intestacy, of the last of the family or lineage of the deceased," as Gagliardi states in *De iure patr.*, vol. 1, chapter 11, paragraph 27. Furthermore, this doctrine is explained more fully by the ad-

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vocate through the decision 581 *cor.* Bichio, number 4 and following: "In the right of patronage, when the called persons are lacking, it does not pass to outsiders, but the benefit acquires freedom, requiring either an express exclusion of outsiders, or that the words clearly indicate the time of the absence of the called, and that they are added to limit the right of patronage, as declared by the Rota; Lotter, etc. Otherwise, the case of the absence of the called remains, as if overlooked by the founder, under the jurisdiction of common law, according to which even outsiders succeed in the right of patronage: Glossa, etc. In our case, however, the word 'only' was not intended to limit the right of patronage, but the favor of males, so that, as long as they exist, they should be preferred to females, which is evident from the fact that it falls under the quality of masculinity required by the founders, namely, 'only legitimate and natural males, always and forever,' as the Rota responded in Rhegien, etc. The prohibition that the right of patronage cannot pass outside the family of male descendants does not imply a limitation of the right of patronage, since it is stated demonstratively, and not expressly, and if it implies an express limitation, it is temporary, as long as the male relatives exist, as was decided in Bononien, etc." However, the Archbishop insists, affirming that even if the right of patronage had passed to relatives or heirs, it had nevertheless completely lapsed due to the penalties incurred for the abuses committed in the goods of the Church, by the father of the Oratrix. The advocate, in response, stated that his client had fully and absolutely absolved her father of blame, because he had paid fifty thousand *libellae* in order to have the occupant of the property leave.

[*Latin ed. p. 652*]

652 IANUEN. for the benefit which they call "Cantoria," twenty thousand; for the aid of the parish of S. Salvator, one thousand; and to the Archbishop Magnasco, for pious purposes, sixty thousand. All of these amount to a total of 132,000 livres. Furthermore, the Church of S. Maria de Rivarolo spent forty-four thousand livres to compensate for damages incurred through the execution of a civil court sentence, so that, considering all sums, the total is 176,276 livres. Therefore, in the year 1885, Archbishop Magnasco stated: "that, considering that, upon the death of the father, the sum of the fruits and interests no longer existed, the capital is less than the total amount of the sums disbursed and to be disbursed for this purpose by the plaintiff." From this, the plaintiff argues that the law of Trent has already been sufficiently fulfilled, so that the punishment of the uselper should be removed; indeed, the Council of Trent, in chapter 11, session 22, concerning reforms, states: "Let him be subject to an anathema as long as he does not fully restore the jurisdictions, goods, things, rights, fruits, and revenues which he has seized, and then obtain absolution from the Roman Pontiff. And if he is the patron of the same church, he shall also, by reason of the patronage, be deprived of the aforementioned penalties." The plaintiff

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adds that absolution, which the plaintiff obtained from the authority of the Pope in the year 1885, when certain goods were redeemed, was also granted to the benefit of S. Maria. Moreover, these actions of "redemption" also affected the benefit of S. Maria; and the Archbishop, in letters to the Holy Congregation, when listing the benefits, also designated "the Archpriory of S. Maria di Rivarolo." In addition, the Pope, on April 27, "approved the request in all respects." Furthermore, the archiepiscopal court objects that the benefit of S. Maria became vacant twice, in the years 1858 and 1866, and no one presented themselves; therefore, the right of patronage has been extinguished by prescription. The plaintiff replies that in the year 1858, Count Sanfront invaded the property; and that action was taken to recover those things; and, the Archbishop states: "This lawsuit lasted from 1858 to 1880." However, during the pendency of the lawsuit, especially concerning the patronage...

[*Latin ed. p. 653*]

JANUARIUS. 653. In ordine ad jus et substantiam beneficii, nec praesentationi, nec devolutioni locus fieri potest; Rota, concilium Gregorianum, decretum 94, n. 10; et in Bononiensi, tractatus de parochiabus, 26 Ianuarii 1711, § ultimus, concilium Caffarello. Adhuc, additur lex Pontificis Innocentii de fundationibus, quae vetat praescriptionem indui propter solam negligentiam patronorum. Nam, cum patroni negligentes sint, devolvi debet collationem « ea vice », ita tamen quod ex hoc nullum praeiudicium inferatur patronis. Deinde, notat patronus ad praescriptionem, praeter duas vacationes, quadragenarium lapsum requiri, ut testatur Reiffenstadius, liber 3, titulus 38, numerus 125: « Amittitur patronatus per non usum longissimi vel longi temporis ad praescriptionem requisiti, si videlicet interea, bis saltem rector ecclesiae sine praesentatione est institutus ». Nec aliter, Gagliardi, loco citato, tomus 2, caput 24, numerus 2: « Sine crimine, in primis, amittitur ius patronatus praescriptione quadragenaria, scientibus et patientibus patronis ». Attamen, nobilis mulier, cum primum libertatem adepta sit per obitum patris, anno 1885, septem et viginti annis post primam vacationem, sua iura affirmavit, et anno 1886 exercuit in paroecia Sanctae Crucis de Moneglia. Ipse Archiepiscopus, instat orator, anno 1885 patronatum oratricis agnovit, eamque coram Sacra Congregatione affirmavit patronam beneficii Sanctae Mariae de Rivarolo. Ex eodem patronatu, Ordinarius parochum instituit ab illa die ad ecclesiam Sanctae Crucis de Moneglia. Deinde, notat orator, hoc saeculo omnes e familia Fieschi patronatum exercuisse, et Archiepiscopus Magnasco ius patronatus in paroecia Sanctae Mariae agnovisse etiam anno 1885, coram Sacra Congregatione. Nullimodò vero advocatus admittere vult, hunc canonicatum iampridem a collegio disiunctum et paroeciae unitum periisse cum ceteris beneficiis, sed asserit hoc beneficium adiectum fuisse paroeciae Sanctae Mariae subjective, et

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inde ius patronatus adhaesisse beneficio parochiali. Suam intentionem confirmat patronus iudiciali sententia edita a tribunali civili.

[*Latin ed. p. 654*]

654. Regarding the matter, the supreme Tribunal determined that a subjective union existed; thus, simple benefits added are to be considered as mere accessories to the parish. Having considered these points on both sides, the purpose was to clarify the doubt concerning whether a legal right of patronage exists in this case. RESOLUTION. The Sacred Congregation, after deliberation on May 8, 1897, decided to respond: Deferred. OBSERVATIONS FROM THE OFFICE. It was first noted that the Procurators of the parties presented to the Roman Rota, in decision 581, before Bichio, a certain argument, and it is deemed useful to reproduce the entire text, which is as follows: "Argument. - Is the right of patronage, reserved in favor of the family of agnatic descent, in the absence of vocations, to be considered transient to outsiders, or does the Church acquire the freedom to appoint those required? In the aforementioned decision, it is widely declared that "The sole object that aroused the informers for Francisco Bracchio in the Memorial requesting a new hearing, namely, that the right of patronage of the disputed benefice could not pass to Laura and Ioannes, who presented the petition, since they are not of the family of male descendants of Gabriele and Nicolao de Bracchi, the first patrons, nor does the right of patronage pass to outsiders in the absence of vocations, when the reservation of that right has explicit terms referring to the persons called, as the first decision admits in §. It is not irrelevant, as is the case in our matter, to weigh the expression, only there: "Successor of male descendants only," which is explicitly stated in Rimin. iun. conf. 20 n. 3, S ad. decis. 29, num. 19, and specifically in Lambert De iure patron, lib. 2, part. 1, q. 2, art. 14, num. 7, and art. 6, num. 4. Then, the following clause is found there: "So that it may neither go out nor come out, nor in any way depart from the lineage, progeny, or family of male relatives."

[*Latin ed. p. 655*]

JANUARY 6th. From the very Lords Gabriel and Nicholas mentioned above, before Lambert weighed the matter. From *De Iure Patr.*, Book 1, paragraph 2, article IV, part IV, number 5; or, if it is not found there, from Sánchez, *Responsiones Morales*, I, chapter 2, doubt 91, under number 1; or, if neither of these is found, then: "However, notwithstanding all the other arguments presented, the initial decision made today is revoked for those who lack the right of patronage, so that it may pass to outsiders; but those persons called [to the benefice] will acquire freedom, or there is an explicit exclusion of outsiders, or the words used are so precise that the lack of candidates limits the right of patronage, as in decree 365, number 14, part 1, and the subsequent *De Re Beneficiis*, Book 2, question 2, number 11;

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otherwise, as Rotulus [a collection of legal opinions] has clarified, the lack of candidates, as if the founder were omitted, remains under the disposition of common law, and outsiders succeed in the right of patronage according to the law; as also the Glossary states in chapter *Considerandum*, 16, question 7. Seraphicus, decree 364, numbers 8 and 12; decree 378, numbers 9 and 10; Rotulus inter recentia, decree 697, number 3, page 3; and decree 288, number 8, part 5. "In our case, however, the precise wording used was not limited to the right of patronage, but also to the favor of males, so that, as long as they exist, they should be preferred; this is clear from the fact that the quality required of the founders is only of legitimate and natural males, forever and perpetually, as the Rota responded in Regiense Jurispatronato, April 27, 1640, penultimate paragraph, before the Most Reverend Bishop of Terracina; as the Carpiensis, *Controversae Forane*, chapter 153, number 21, especially notes, and number 22, together with what the founders declared below, should refer to the older of the present candidates of any lineage, excluding all others, as long as and while male relatives exist; for the words 'excluding all others' cannot refer to females, but clearly indicate a temporal exclusion of males, which is important."

[*Latin ed. p. 656*]

656. IANUEN. The clause, as long as and for as long as Bartholomew states in § 2 of the final section of his work, concerning the contrary opinions cited against Tertullian, Bald, in chapter 1, § 3, and also in § 3, concerning the case where a title of Bishop or Abbot is established in feudal customs, as found in Rotari, Decree 367, numbers 22-23, cited by Penna in his decisions, number 48, numbers 2 and 3, among the printed works, concerning the Statutes of Perugia: "The prohibition, that the right of patronage may not extend beyond the family of male descendants, does not imply a limitation of the right of patronage, since it is stated demonstratively, and not taxatively; and if it does imply a taxative limitation, it is only temporary, lasting as long as there are male descendants, as has been decided in the Bolognese Decrees of February 26, 1652, § penultima, before my Reverend Father Bevilaqua, and it is more easily understood that such a prohibition, immediately after a taxative designation of males, is appended with a clause, so that, there: 'so that it may not go out, nor come out,' from which it is understood that the prohibition receives the same meaning of male preference and temporary exclusion of females, as the very next designation of males, because it is the nature of such a clause to be understood according to precedence. Ruin. cons. 332, number 1. Mart. de iurisdict, part 4, century 2, essay 130, reason 8. Barbosa Dict. 182, number 7, citing Fusar, cons. 176, numbers 8 and 9. 'Therefore, the doctrine of Lambertini, which is cited in opposition, does not apply. Because he does not speak in a case where the prohibition is declared according to precedence, except that Lambertinus there alone affirms that favorable conditions can be added in the

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foundation, and among others, he mentions the prohibition of this kind, and he was rejected in similar terms by Seraphino, Decree 364, number 8, and Decree 378, number 9.' 'And so, both.' Therefore, in the present case, the following words of the cited decision should be carefully considered: 'in order for the benefice to acquire freedom, it is required 'either an express exclusion of outsiders, or that the taxative words indicate a time limit.'"

[*Latin ed. p. 657*]

JANUARIUS. 657 The vocations are to be considered, and those attached to them, in order to limit the extent of the patronage. Therefore, in the matter under consideration, it must be determined whether the Founder, by that clause of exclusion, intended to exclude women directly from participating with their relatives; or from enjoying the patronage itself. It is clear that the clause which the Roman Rota interpreted in the aforementioned decision contains a very clear exclusion of participation with male relatives, first, in the exercise of the right by those called by the testator. Furthermore, it is helpful to refer to the solution of the abstract question, which is clearly explained by Fagnanus in chapter *De iurepat*, number 15: "I ASK whether the patronage of nobility, that is, reserved to those of the family and lineage of the founder, becomes extinguished with the extinction of the lineage, and passes to outsiders. " To the negative side, the authority of Baldi is cited regarding the first point, where he states that the patronage granted to sons does not pass to heirs who are outsiders after their death, especially because, since the patronage was granted by the founder to the sons, it seems to be denied to outsiders who do not have this quality. And in almost the same terms, Geminianus responded that the patronage left to male children, in their absence, does not pass to women, but is extinguished, and the Church remains free. Indeed, because the expression of males is considered to be made for the exclusion of women; therefore, in the same way, the expression of those of the family is considered to be made for the exclusion of others who do not have this quality. And this is confirmed by the example of the patronage granted to a university, which cannot be transferred to those who are outside the university, as Lambertinus states. "On the contrary, it is argued: A provision made by a person does not invalidate a provision of common law in the same case... But the patronage, by a provision of common law, is transmissible to heirs, as is evident here... and it has been said above... Therefore, the provision made by a person in reserving the patronage to those of the family does not invalidate the fact that, in the absence of those of the family, by the provision of the law, it passes to the heirs." This is the very foundation for the *Acta*, Volume XXX, page 359, number 42.

[*Latin ed. p. 658*]

658. Concerning this matter, Peter of Anchar, in Council 81, offered a

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full opinion, and the Doctors of the Rota, before Robusterius, masterfully demonstrate that this opinion is common and true. "Furthermore, they argue that when some circumstance is omitted in a will, it is left to the disposition of common law. But in this case, the circumstance of the family's deficiency was omitted by the testator; therefore, it must be left to the disposition of common law, so that the right of patronage may pass to foreign heirs. Thus, the provision of the testator is in harmony with the provision of the law, and both are preserved in their proper place: the provision of the testator, as long as there remains someone of the family; the provision of the law, when the family is extinct. Whenever the provision of the law is made in place of the provision of the testator, then the law is silent where the testator speaks; but when the law proceeds from a different source and a new root, as Baldus formally states...; nor does the provision of the testator nullify the provision of the law, even if it is special and extraordinary, when they concur concerning different matters. "For the solution, it seems necessary to distinguish: either the founder intended the right of patronage to belong exclusively to those of the family, so that it pertains only to them, and not to their heirs; and in this case, the right of patronage does not pass to foreign heirs at all, but remains extinguished with the extinction of the kinship, and the Church is free; and in this case, the Cardinals and Rocchi speak at the beginning of the question... It is indeed possible for the patron in the foundation of the Church to relinquish the right of patronage entirely, or in part, and to limit it in such a way as to prejudice the descendants or foreign heirs, as he pleases. "Or, the right of patronage was granted to those of the family simply and without any limitation; and in this case, it passes even to foreign heirs, not by the provision of the testator, but by the provision of the law, to which the provision of the testator does not contradict; and the reasons adduced in support of the second opinion are clear, whatever may have been held by Baldus and Geminus, cited above, who speak against the common opinion. "From these things, the answer to the objections is evident; nevertheless, it does not prevent us from answering each objection individually, so that the right of patronage..."

[*Latin ed. p. 659*]

JANUARIUS. 659. It was held that this provision applied to those of the family; because those words stand demonstratively, according to Cald. and Anchar. And although they might seem to imply some kind of taxation, it is understood that this applies as long as the family exists, and not when the family is lacking, as is clear from what has been said. "Furthermore, the same principle does not apply to the right of patronage of a university, because the similarity lies in the fact that as long as there are any members of the family, outsiders are not admitted; but when the family is extinct, the case omitted by the founder must be regulated according to the dis-

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position of the law; and in this respect, the similarity to a university or college does not hold, because there is no heir or successor as there is in the last of the family." Because, in the matter at hand, the clause of exclusion was considered more effective because it contained that very word which seemed to signify any kind of exclusion, the procurator of the orator today admits that he easily fell into error by inserting in the deductions the clause protected by that word. Furthermore, with these things historically related, as far as the formula of the words in which the clause of exclusion was conceived, the Most Eminent Fathers will judge what its legal force is. But, furthermore, in the present question, it must be noted that the heir, Cardinal Fieschi, the last of the agnates, if he was able to enjoy the patronage by right, by virtue of inheritance, has suffered penalties imposed by the Council of Trent, inflicted upon those who usurp the patronage of Church goods; among these penalties is the loss of the right of patronage itself, incurred by the very act. The treasure in the treatise *De poenis ecclesiasticis*, which is the principal author of authority in these matters, is thus commented on, citing: *Decretum - P. 2 V. Usurpantes cap. 1*: "From the 22nd session, chapter 11, it is decreed that if anyone, whether cleric or lay, seizes the jurisdictions, goods, revenues, rights, fruits, emoluments, or possessions of any Church, or of any secular or regular benefice, or of the Monte di Pietà, or of other places, which are to be converted for the necessities of ministers and the poor, by themselves or by others, by force or by fear..."

[*Latin ed. p. 660*]

660 "Si quis, sub falso vel mediante personas clericorum aut laicorum, aut alio modo, se immiscere praesumpserit in res clericorum aut laicorum, et eas sibi adcommodare, vel impedire ut ea ad eos ad quos pertinere debent percipantur, is anathemati, id est excommunicationi, subiaceat, donec occupata seu recepta integre Ecclesiae seu administratori seu beneficiario restituat, et deinde a Papa absolutionem obtineat: quod si praedicta committens patronus fuerit eiusdem Ecclesiae, praeter praedictas poenas, iure patronatus eo ipso privatus existat..."

Barbosa, in cap. "Quia clerici De iurepat." 2, hoc idem expressit. Privatio vero patronatus ipso iure incurrit, et poena latae sententiae suum effectum sortitur eo ipso momento quo crimen committitur. Thesaurus, in opere citato, P. I, cap. III, ita explicat quid sit poena latae sententiae: "Respondeo primum quod poena latae sententiae est illa quae effectum sortitur et afficit ex ipso iure seu canone disponente, id est ex sola ipsius canonis potestate seu ipso facto, absque ministerio iudicis, idest absque alia sententia condemnatoria vel executoria (quam requirit poena sententiae ferendae); nam ipsa trahit secum executionem." Unde, in cap. suos. XIII, idem Doctor quaestioni: "An poenis latae sententiae commissae, purgatione, morae, poenitentia, spontanea confessione vel deprecatione tollantur vel minuantur?" reponit: "Respondeo primo in poena latae sententiae non

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admitti morae purgationem... Et facit quia poena latae sententiae vim habet rei iudicatae."

"Respondeo secundo quod poenitentia imposita et peracta, sive in foro poenitentiali, idest sacramentali, sive in foro conscientiae, seu quasi poenitentiali, etiamsi si publica non tollit nec minuit poenas latae sententiae, seu ipso iure commissas, ut Menochius."

Idem Doctor, autem dum asserit poenas latae sententiae incurri ipso facto absque alia sententia condemnatoria vel executoria, non excludit sententiam declaratoriam; imo, quoad ipsam privationem iuris patronatus, in cap. I, Part. 2, I., supra citato, ait: "Nota secundo quod illa poena privationis iuris patronatus non ligat ante sententiam declaratoriam pro foro conscientiae."

[*Latin ed. p. 661*]

"IANUEN. 661. The loss of a right, being a deprivation of a right acquired, according to the teaching of John Andreae...; therefore, he does not sin who, knowing that the patron has secretly incurred this penalty, seeks presentation from him, because he still retains the valid title and possession, indeed, the useful title, or quasi-ownership." Nevertheless, the force of a declaratory sentence, as the very word signifies, lies entirely in legitimately establishing the fact from which the deprivation of some right arose. Indeed, the penalty itself, which is incurred by the act, cannot be held before society as already inflicted unless it is established that the act or crime has truly been committed. A declaratory sentence serves this purpose, its intention being not to inflict penalties, but to publicly recognize penalties that are already imposed on someone by a prior legal decree, so that the subsequent effects may fully take effect with regard to public affairs. Therefore, the pronouncement of a declaratory sentence confirming an already existing penalty urges it as if it were already inflicted from the very moment the crime was committed. The matter is confirmed by the *Thesaurus* of op. Part. I, chapter 6, which resolves the question: "Can a penalty of a final sentence, following a declaratory sentence, be withdrawn?" It teaches: "I answer that even in those cases in which it is said that a penalty of a final sentence does not bind before a declaratory sentence, nevertheless, during that intermediate time, the penalty of this kind does not lack effect. For first, the declaratory sentence, when it follows, is traced back to the day the penalty was incurred or the crime was committed, so that acts performed in the meantime are considered void; therefore, if someone is declared today to be a heretic or guilty of treason, then alienations made from the day the crime was committed are annulled, and the fruits from that day are confiscated." Furthermore, if a declaratory sentence pronouncing the penalty of the deprivation of the right of patronage has not yet been issued, it can be validly presented today, indeed, the business is expedited by the fact, because since the act of usurpation by the patron

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has been made notorious and cannot be denied without tergiversation, it is by no means necessary to precede the declaratory sentence with judicial knowledge, if indeed, in notorious cases, there is no proof and no defense, as the aforementioned text states."

[*Latin ed. p. 662*]

662. Regarding patrons: The statement of the Most Reverend Berardi in his *Commentaries on Canon Law, Universal*, Volume I, page 322, which asserts that "patrons are, by law, deprived of their patronage," nevertheless, "by the benignity of the Church, they remain patrons as long as there is no hope of restitution to the whole [of their rights], as long as they have committed a fault; otherwise, it is easily restored when, having ceased the illicit act, they make amends." Indeed, a patron who damages the property of the Church, by the very act of damage, is, by law, deprived of the patronage; and the judge, having established the fact, must declare that the penalty has already been incurred. No other means exists for acquiring new rights except for complete restitution, or the revocation of the penalty, so that all the effects of the penalty are dissolved, and the matter is placed in the state in which it was before the commission of the crime. But since the penalty is a matter of common law, it is the one who is the founder of common law, namely the Supreme Pontiff, who must revoke it. With these premises established, the following question was to be resolved: Whether, in this case, the patronage is legally established.

RESOLUTION. The Sacred Congregation, after deliberation on August 21, 1897, decided to respond: Negatively.

PARISIEN. NULLITY OF MARRIAGE. January 23 and August 21, 1897. Session 24, Chapter 1, concerning the validity of marriage. The noble maiden Constantia de Montmort, while residing in Normandy with a relative, was captivated by love for the Count of Chaumont-Quitry, and promised him conjugal fidelity. But the parents of the betrothed did not approve of this marriage; and Constantia, with no small sorrow, was forced to renounce this desired union.

SUMMARY OF THE FACTS.

[*Latin ed. p. 663*]

PARIS. Sixty-three years after, Marquis Charles de Montalembert requested Constantia in marriage, and since this union greatly pleased the girl's mother, the wedding was arranged without delay. However, Constantia, either because she still clung to a forbidden love, or because she disliked Charles himself, is said to have rejected the proposed marriage. Nevertheless, the mother forced this union upon her daughter, and, if what is now recounted is true, she did not use only moral coercion to obtain

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her consent, but sometimes even physical coercion. Therefore, Constantia, after having tried everything to sway her mother's will, was forced, as she herself says, to enter into marriage. She was joined in marriage to Charles de Montalembert on August 1st, of the year 1883, when she had not yet completed her seventeenth year. This marriage proved to be a most unhappy one; for Constantia seems never to have loved her husband, and the husband, rather than winning the bride's affection through love and care, is said to have devoted himself so much to other pursuits that, in July of 1889, he abandoned his wife and emigrated to Africa. After Charles' departure, Constantia returned to her mother and, in February of 1893, obtained from the civil court a separation of property and goods. Finally, on October 28th of the same year, she submitted a petition to the Most Reverend Archbishop of Paris: "This marriage was not freely entered into by the petitioner, but rather she was violently compelled by her parents, as will clearly be evident from the testimonies to be presented. Furthermore, the records of the proceedings will prove that this marriage was not consummated. Therefore, in order that the process may begin more quickly, and that the deposition of the infirm uncle may be received immediately, the petitioner humbly requests that Your Eminence be pleased to declare her marriage null and void, due to grave fear." The Most Reverend Archbishop, after establishing a Tribunal, entrusted the investigation of the case to a delegated judge, who, after a lengthy process and only after the petitioner's case was completed, issued the following judgment on June 4th, 1896: "We declare, pronounce, and decree that the marriage is null."

[*Latin ed. p. 664*]

664. PARIS. "Between Marquis de Montalembert and Constance de Montmort, contracted on August 4, 1883, in the Church of St. Peter, commonly called of Chaillot." The actress's advocate divides his argument into two parts, and in the first, he maintains that a marriage begun out of grave and reverential fear is, just as in the ordinary case, invalid.

SYNOPTIC DISCUSSION. It is certain in law, he says, that a grave fear, natural, free from the cause, unjustly and directly imposed to extort consent, invalidates marriage, as is clear from chapters 14, 15, and 28 of *De sponsalibus et matrimonio*, and from chapter 2 concerning him who has taken a woman whom he has defiled through adultery. Furthermore, that reverential fear also invalidates marriage, all Doctors affirm, although a great debate arises among them concerning the nature of reverential fear. All canonists, according to the speaker, teach that reverential fear renders marriages invalid, provided that the conditions of ordinary or common fear are present, namely, that it is grave, natural, free from the cause, unjustly and directly imposed to extort consent. Thus, Sánchez writes in Book IV, disputation VI, number 14, concerning marriage: "It is inferred that

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if a daughter contracts marriage, without prior threats, solely out of the fear of incurring the father's displeasure, it is valid; for here, the fear is not considered to fall upon a steadfast man. However, I would moderate this, so that it is understood when that displeasure of the father or husband will not last long, but there is hope of future reconciliation; if, however, she feared that the displeasure would be long-lasting, and that she would always have a father or husband who is very displeased and indignant, and would constantly bring up that disobedience, I would believe that the fear would fall upon a steadfast man. For who is a steadfast and prudent man who would not consider it a grave evil to always have a displeased father, or husband, or other person from whom he depends, and with whom he is always to be associated?" Reinffestuell, in Book I of Decretals, title XL, number 95, states: "Although mere reverence towards parents and other elders..."

[*Latin ed. p. 665*]

PARISIAN. 665, or the fear of reverence, by itself is not sufficient to invalidate, for example, a marriage celebrated by children, or to rescind another contract; however, it is different when, at the same time, there are added acts of cruelty or grave threats against the children or subordinates by the parents, unless they obey, or at least, importunate and insistent requests. The same doctrine is taught by Engel in *lib. 1 Decretal, tit. 1 § V, n. 4*, Pontius in *De matrimonio, lib. IV, cap. 5*, Schmalzgrueber in *lib. 1 Decret, tit. XL, n. 5*, St. Alphonsus in *Theol. Mor. lib. VI, n. 1056*, and Santi in the *Voto* written by him for the truth of the matter in the matrimonial cause of Tolentinate, April 11, 1869. Turning to the other part of the argument, the advocate, with all his might, argues that the marriage begun by Constantia was under a grave fear, whether ordinary or reverential, and therefore, that marriage is subject to nullity. He is confident that he can prove this with three arguments. First, he shows that the fear was grave, due to the mother's behavior towards her daughter. Indeed, the mother was violent, harsh, and cruel towards her daughter, preferring a son, as can be seen from the records. The actress, the actress's brother, the uncle of the same actress, the Countess de Gramont, and the aunt of the plaintiff, all confirm this. On the other hand, the defendant argues that the daughter was gentle and feared her mother's violence, and all the witnesses agree. The Count de Montmort, the actress's uncle, said: "She was very gentle... she was very fearful of her mother, whom she systematically avoided." The witness Corbin said: "She feared her mother's outbursts. The mother's violence was felt by everyone... the daughter yielded to her wishes, out of fear of her outbursts." Also, the witnesses Chappuis, Bacquelot, and the lady Dampierre, the aunt of the actress, said: "I cannot say that Miss de Montmort greatly feared her mother... but she dreaded those scenes that took away from her the gentleness and peace that she should have shown

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in family life." However, everyone agrees that the mother firmly desired this marriage.

[*Latin ed. p. 666*]

666. Parisienses, secundum oratorem, per paginas actorum proclamant: "Mater mea, Constantia fateri, non solum me ad accipiendum hoc matrimonium obnoxiam fecit, sed etiam scaenae violentissimae mihi exhibuit. Pro matre mea, hoc erat, primariamente, quaestio ambitionis. Ut Americana, ab altitudine nominis et magnitudine fortunae seducta erat. Secundariamente, desiderabat me ab se disjungere." Concinit Comes de Montmort, patruus actricis: "Frater meus se ostendit aliquantim indifferente, sed Domina de Montmort, contra, se ostendit superbus ultra omnem expressionem de matrimonio filiae suae cum iuvene qui nomen grande portabat." Eadem testificant alii testes: Corbin, Comitissa de Grammont, Vernoy, Chappuis; et ipse maritus, Carolus, dicit: "Haec propositio accepta est cum indifferentiā a puella, sed cum gaudio a matre." Omnes vero testes, urget, pariter asserunt hoc matrimonium, tam a matre exoptatum, Constantiae fuisse invisum et odiosum. Mater autem, refert advocatus, ad filiae resistentiam labefactandam, non solum precibus, suasionibus instantissimis, verbis graviter contumeliosis, sed etiam minis et violentijs physicis utitur. Marchio de Montmort, frater Constantiae, quem mater prae filia dilegebat, cuius intererat maternam famam sanctam et tectam servare, fatetur Iudici: "Scio quod in aliquo momento soror mea disputationem habuit cum matre nostra. Breviter dicendum est, mater mea, ad decidendum filiam suam, instantiis reiteratis utitur, quae frequentissimas scaenas adhibuerunt, in quibus expressionibus lesivis et iniuriosis de sorore mea utitur." Comitissa de Gramont, avuncula Caroli, dicit: "Ita vero, mater instantiis reiteratis utitur ad urgendum filiam ad hoc matrimonium." "Mater mea," (ait Constantia), "ad me adducendum ad hoc matrimonium, me etiam minitabatur (et hoc saepe), me ex domo expellere. Epitheta vehementissima adhibebat... ad haec verba et minas, mater mea, violentias addidit."

[*Latin ed. p. 667*]

PARISIAN. 667 I shall cite in particular two scenes. One day in the countryside, during the ten days that I spent there before the engagement, in the presence of my uncle, Mr. de Montmort, and Mr. Vornoy, my mother, after having uttered all sorts of insults to me, and ordering me to obey and to go through with this marriage, in the face of my absolute refusal, and my response: "No, no, I will not marry him, I do not love him, I hate him," my mother threw herself upon me, seized my arm, and shook me with such violence that I bore the marks of it for several days. Then, suddenly, as if frightened by what she had done, she fled into her room, and I believe I remember that my uncle brought me back to mine. One day, during that same period, being ill, I had gone to bed. My mother came

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to give me another scene, repeating always the same orders and the same insults. I opposed, the same refusals. Exhausted, I was seized by a nervous crisis. Frightened to see me in that state, she went to fetch my uncle. I lost consciousness. When I came to, my uncle was beside me, near my bed. My mother was not yet calmed, and on the contrary, she was saying to me that I was acting and that all of this was nothing but grimaces. "These things," continues the advocate, "are entirely confirmed by the witness, the Count de Montmort, the paternal uncle of the actress, an octogenarian and most pious man, an auricular and ocular witness." "She (the mother) added threats, and in particular this one: 'I will strike you with lightning at the door...' I myself heard this language and these threats very often. To my knowledge, Madame de Montmort has resorted to scenes of violence, of which I shall cite in particular two examples." And here, the witness recounts the same facts, of which I spoke above. Turning to the second argument, the advocate attempts to prove the gravity of the fear caused by several preceding, concurrent, and subsequent actions to the marriage. The preceding actions, which, according to him, manifestly show that Constantia was gravely forced to marry Charles.

[*Latin ed. p. 668*]

668. The Parisian [newspaper] mentions many reasons for the marriage, but only one is emphasized: that Constantia wished to avoid the marriage by suicide. Furthermore, the advocate observes, it should not be said that these facts are untrue, since they are confirmed by the testimony of Eugenia Duguerghe, who was present, and by other witnesses who heard of them. Regarding the accompanying events, the advocate recalls how, on the day of the wedding, Constantia refused to rise from her bed and prepare herself, and how, weeping, she refused to go to the Church. Constantia, the advocate insists, finally went to the Church, pale and deeply saddened, and stood at the wedding ceremonies, shedding many tears; she barely uttered the words of consent, and, upon returning home, unable to contain her grief, she threw herself into the arms of her governess, saying that it was unjust that she had been forced into these detestable nuptials; and she vehemently refused to proceed with the wedding. Moreover, according to the sworn testimony of many witnesses, the actress, during the period of marital cohabitation, repeatedly stated that she had not married Charles de Montalembert willingly, but only because she had been compelled by her domineering mother. Finally, the advocate, addressing the argument of his prayer, states that the seriousness of the case is also demonstrated by the unanimous and direct affirmation of all the witnesses; and he recounts certain assertions of the witnesses, which, without prejudice to his client, he will not pass over in silence.

DEFENSORIS S. VINCULI OBSERVATIONS. The defender of the marriage, by his office, primarily presented the following fact, which he con-

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siders eloquent. In the year 1895, Constantia, already long subjected to inquiries in Malix, spontaneously approached the Judge and requested that he suspend the proceedings regarding the nullity of her marriage. The actress herself confesses this: "When, last year, I went to Mr. the Official Fages, to request a postponement of the judgment on the nullity of my marriage, I yielded to a scruple of conscience, which made me very unhappy: it seemed to me that I had not told exactly the truth."

[*Latin ed. p. 669*]

PARISIAN. 669 This scruple, he says, troubled Constantia for almost two years, from the day that the inquiry had ceased on May 22, 1894. Nor did Constantia undertake anything rashly or inconsiderately during these two years, but acted most carefully. She only revealed her true intention of suspending the proceedings to the Judge after one year from the cessation of the judicial acts; when, indeed, experts advised her that it was best to withdraw from the proceedings. For this, absolutely no petition was required from Constantia; since, without her, the accuser certainly was not requesting that the proceedings be continued, and the Judge, without any urging, had already suspended them from May 22, 1894. Furthermore, the defender laments that the petition of this kind of defendant was not recorded in the records, for from this it would clearly be recognized whether Constantia intended to suspend, or rather, to withdraw from the proceedings. But when, in 1896, having changed her mind, and without any valid reason, Constantia wished to continue the proceedings, she petitioned and easily obtained a third examination. Although, according to the speaker, this third examination fortunately occurred; for, if it had not occurred, she would not be able to know whether she had withdrawn from the proceedings. But even in this, he adds, another injustice is inflicted upon the marriage; for the process allows Constantia, without any reason, to submit the examination in writing, and not orally. Indeed, the oral examination is intended for this purpose, so that the person being examined may be less able to prepare, or to devise deceptions, because, not being able to foresee the questions that the Judge will propose, he cannot prepare answers; and if he does not wish to tell the truth, he fears that he may be ensnared by the questions that the Judge will suddenly ask; while, on the other hand, in a written examination, having prepared his deposition with the tranquility of mind afforded by legal counsel, he anticipates the Judge's questions, by which he might be misled. And truly, Constantia adorns her written examination in a remarkable way. Furthermore, the speaker considers it worthy of note that all the witnesses presented by the defendant were such that not even one witness would...

[*Latin ed. p. 670*]

670. Regarding the rights of marriage, whether defended by the spouse

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from Constance, or by duty, it is clear that this matter is fraught with dangers, as adding witnesses to the testimony of either litigant can easily lead to complications. Here, a lengthy example is cited, taken from a celebrated case in Bologna. The matter of the nullity of a marriage was last judged by the Sacred Congregation in plenary sessions on December 16, 1893 (1). In that case as well, the plaintiff contended that he had been coerced into the marriage by his father, and a group of witnesses confirmed his assertion, even recounting the acts of cruelty and threats made by the father to his son. However, the investigators in Bologna were not satisfied with the witnesses presented by the plaintiff, but they also heard witnesses summoned by duty, and it is to these witnesses alone that the validity of the marriage, which remained firm and steadfast, is owed. Therefore, it is regrettable that the tutor of the bond, the gentleman Charles de Montalembert from Constance, failed to present witnesses. Furthermore, it is lamentable that the investigators did not consider it their duty to supplement the negligence of Charles. Perhaps, the facts that the plaintiff's advocate sought to demonstrate, which suggested that the marriage suffered from the bride's coercion, would have vanished like a bubble of soap, if, in addition to the witnesses against the marriage, others had also been summoned to defend the marriage. Consequently, it does not immediately follow that the plaintiff is perjured, nor that the witnesses she presented are perjured; as in the aforementioned case in Bologna, the advocate did not assert that the plaintiff had perjured himself, nor that the witnesses were notorious for perjury. No one can define the extent of the power that imagination can exert in our misfortunes and those of others. However, it is clear that a significant part of the present controversy stems from imagination, because the judgment of nullity of the marriage, which Constance had abandoned in the pursuit of peace of mind, was restored when she learned, as she herself said: "That he (Charles) had been forced to leave Tunis due to a matter of morals, and to take refuge in Belgium to escape prosecution." (1) *Recueil* Vol. XXIII, 140, XXIV, 39.

[*Latin ed. p. 671*]

PARISIAN. 671 legal articles. The very thought of bearing her name, that name which, at any moment, could be irreparably tarnished, causes me terrible anguish." Then, bringing the testimonies of the witnesses regarding the marriage bond back to the truth, he observes that, approximately a month before the marriage was to be celebrated, the intention had been announced to relatives and in-laws, and that consultations had been held with them. But, the advocate exclaims, such gatherings of family members, whether numerous or few, indeed, not even one, nor a formal banquet, would have taken place, if it had not pleased Constantia's mother, whose will the entire household depended upon. Nor would Constantia's mother, if she truly instilled fear in her daughter, have summoned relatives and

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in-laws, as if to manifest joy over the forced marriage. Furthermore, the guardian of the sacrament observes that if the woman were truly forced into the marriage against her will, she would have sought help from the relatives at the aforementioned gatherings, and would have used them as intercessors with her mother. But this is not the case. When the defender of the sacrament appropriately asks each witness: "What persons would she (Constantia) have involved in order to break off the negotiations and change her mother's plans?" This question, as is evident, would have had an easy answer, if the alleged coercion had existed; on the contrary, it disturbs Constantia and her witnesses, and greatly inflames discord among them. In addition, the defender adds that Constantia possessed a temperament such that she would not easily tolerate insults, vexations, or other similar things, but was accustomed to losing control of her anger for even minor reasons. Constantia's brother and other witnesses testify to the same. Nor is the defender moved by the fact that it is said that Constantia did not love her mother very much, and that she had placed her brother before her in her will. For there are Constantia's uncle Corbin, and other witnesses who testify to the contrary. As for those witnesses who assert that Constantia was subjected to prayers, insults, abuse, threats, and physical...

[*Latin ed. p. 672*]

672 PARIS. The defender argues that the woman was violently opposed to marriage by her mother, and that the advocate of the sacrament confesses that he was not more moved by these accounts than by the accounts of witnesses presented by the plaintiff in the often-mentioned case in Bologna. Indeed, if many witnesses were to present themselves with a high degree of probability, affirming the contrary, the judge, as is proper, would examine other witnesses ex officio. Nor, he continues, are the attempts at suicide presented in a more favorable light. Since it is stated in the depositions that Constantia, not only before the marriage, but also after being married, repeatedly expressed a desire for death, it is easily understood that she did not attempt suicide in order to avoid the celebration of the marriage, but rather for entirely different reasons. Finally, the advocate, descending to the last argument in favor of his client, maintains that the woman, whether before the parish priest or before a civil official, in the presence of a large gathering of relatives and friends, freely gave her consent to the marriage. "Given these facts," concludes the defender of the marriage, "the decision of the Rota, No. 149, § coram Ratto, is applicable: 'When a marriage is contracted before a priest and two witnesses, in accordance with the form prescribed by the Sacred Council of Trent in Session 24, De reform, cap. 1, and in the very act of celebration, there is a free consent of both parties, all presumption must be made in favor of the validity of that marriage, and no consideration should be given to opposing objections, when those objections are not so

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compelling and effective as to immediately and conclusively demonstrate a pretended nullity, whether arising from a lack of free consent, or from some other invalidating cause.'" And the Instruction of the Sacred Congregation of the Holy Roman Church, Inq., dated 20, 1883, article 3, concerning impediments and fear. With these things in mind, the formula of the doubt was proposed: "Should the sentence of the Archdiocesan Court of Paris be confirmed or overturned in this case?" To which doubt the response was: "The records of the process should be extended and completed according to the instructions to be given by the defender of the marriage ex officio."

[*Latin ed. p. 673*]

PARIS. Number 673, who wrote to the Ordinary of Paris, requested that a supplementary process be conducted according to the instructions drawn up by the defender of the bond, which were as follows: "1° The witnesses shall be examined under oath. For it is unlikely that any others, besides the witnesses produced from Constance, are informed about the facts concerning the celebration of the marriage, both preceding, accompanying, and subsequent. "2° Therefore, it is incumbent upon the most esteemed man who, by virtue of his office, protects the rights of marriage within the Archdiocesan Court, to diligently and skillfully investigate and, with all diligence, to ensure that those witnesses are brought to examination. "3° He should, if possible, arrange for new witnesses to be brought to examination without their knowledge, and among the general questions, he should ask them whether they have been questioned by those with an interest in the matter. "4° Moreover, he shall carefully prepare the questions, according to his own prudence and conscience." The Court of Paris, showing equal concern, examined new witnesses under oath, and after completing the process, transmitted the proceedings to the Sacred Congregation, stating: "We believe that, if it is permissible to reveal our opinion, the judgment of this Court regarding this cause has become more firmly established based on more recent evidence." The actress's advocate divided his argument into two parts, refuting in the first part the testimonies of certain witnesses who had testified against the actress in this supplementary process, and in the second part, he sought to support his thesis with the testimonies of other witnesses. Having refuted these, the advocate, proceeding to the other part of his argument, affirmed that this supplementary process had made the case of his client stronger, and he particularly noted that it was not surprising that not all the witnesses were brought to examination without their knowledge, as the defender of the marriage had requested. Since the Court, which at the beginning had sought to comply with, if not an order, then a suggestion, to "do what is possible," had seen that some witnesses were behaving in a most offensive manner, it deemed it just to present the

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testimonies to both parties.

[*Latin ed. p. 674*]

674. PARISIAN. [She] lacked care and the ability to defend herself. And rightly, according to the defender, the Court acted; for legitimate defense is a right of nature, and the Court could not have worsened the condition of Constantiae, which, indeed, would have happened if, with established procedural rules, her adversaries had been given the power to deposit whatever they wished, but not the actress to refute their calumnies. With this said, [the discussion] descends to the examination of witnesses. According to the patron, all the circumstances which constitute a grave danger are wonderfully confirmed in the new process, as we have indicated. And indeed, concerning the mother's character, the witnesses repeat that she was harsh, violent, irascible, and absolute. Furthermore, the advocate reports that, from the most recent records, it is clearly gathered that the mother, driven by the lust of insane ambition, having chosen the Marquis, desired the marriage firmly, while, on the contrary, the daughter was inflamed by a different love, disgusted by the Marquis's bad morals, and horrified by him. Furthermore, harsh conflicts between the mother and daughter are gathered, injuries, insults, and cruelty towards the innocent girl are gathered, blows, attempts at suicide, and expulsion from the house, disinheritance: these things, however, are confirmed by various witnesses. But where, according to the patron, the new process excels, is in the testimonies and written attestations concerning Constantiae's incorrupt manners, her unwavering faith, her love of truth, and her outstanding piety.

REMARKS OF THE DEFENDER, SAINT VINCENT. The defender of Vinculi, on the contrary, maintains that Constantiae's marriage was valid, since it was not contracted under any coercion, as is confirmed by several witnesses examined in this supplementary process. With these premises, the guardian of the sacrament observes that the present case does not differ from the case of nullity of marriage in Bologna, about which he himself spoke at length in the remarks of January 23rd last, which the esteemed Fathers will, with their customary kindness, deign to review. If any distinction exists between this case and that one, according to the advocate, it consists only in the fact that the Bolognese judge, when he observed that the witnesses summoned by the court were diametrically opposed to the witnesses presented by the plaintiff, did not...

[*Latin ed. p. 675*]

PARIS. Moved by this, and proceeding with the investigation as was his right, the Parisian judge rigorously questioned the witnesses, and did not allow the other party to become aware of the testimonies until the investigation was completed. Conversely, the Parisian judge, upon learning of the scandalous accusations of the plaintiff, immediately presented

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the testimonies and witnesses to her. This procedure is confirmed by the very vice-president of the Parisian court: "We summoned and heard four witnesses, as much as we could, without prejudice, at least initially. But when some of the witnesses appeared to be very offended, we considered it just to communicate the testimonies to the other party, and to give them the opportunity to defend themselves; hence, witnesses were heard voluntarily, and others whom we only knew through the plaintiff." On this matter, the defender of the sacrament expresses great astonishment, because he does not see the Count of Choiseul, the Marquis de St. Innocent, and the Countess de Robesart presenting themselves as offended by the plaintiff. For, he says, it is not the same thing to denounce unpleasant truths at the order of the judge, and to appear offended. Indeed, the aforementioned witnesses confessed to unpleasant truths, but the orator did not find a single word that reveals a malicious intent; on the contrary, according to him, their arguments demonstrate a benevolent attitude towards the plaintiff, whenever they could do so without prejudice to the truth. As an example, that very offended Count of Choiseul said: "I, however, have great sympathy for her (Constantia) because she is very good." Therefore, the tutor of the marriage observes that, through the revelation of these events, the opposing witnesses have been shown to have unjustly and impudently accused the aforementioned Count of Choiseul, the Marquis de St. Innocent, and the Countess de Robesart; for the matrimonial judgment, that is, the civil proceeding, has been turned into a criminal matter, with the accused being unaware and undefended. In this way, the orator exclaims, all marriages would be in danger; for who would dare to give testimony in favor of a marriage henceforth, if, as in the case of the Count of Choiseul, the Marquis de St. Innocent, and the Countess de Robesart, they could be convicted?

[*Latin ed. p. 676*]

676. The Parisian [lawyer] argues, but the speaker retorts: Why do those cited as witnesses, who are making accusations, not define them more precisely? For example, they state that the Count de Choiseul does not want the marriage to be annulled because, by reason of his guardianship over the Marquis Charles de Montalembert, he is obligated to consider the latter's interests. But, according to the speaker, this accusation is far from the truth, as is evident from the very words of the jurist, Maurice Bouts, who manages the affairs of Constance: "Mr. de Choiseul gave up his position as legal advisor to Mr. de Montalembert" when the divorce case was brought up; or when they claim that the Count de Choiseul would move heaven and earth to prevent the dissolution of the marriage; whereas, on the contrary, the Count de Choiseul did not even appear in the first inquiry, but later came to be examined by the judge; or finally, when they allege: "It was even said that the Count de Choiseul had caused Mr. Poubelle, the ambassador

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to the Holy See, to act." This seems incredible to the speaker; for if that man had done something similar, surely the Fathers [of the Church] would have known it. Therefore, the defender of the marriage, omitting everything else and rejecting this method of conducting marriage proceedings, appeals to the instruction of August 22, 1840, issued by the Sacred Congregation of the Council: "To the extent that the Defender of the Marriage does not see the need for any other evidence to be sought, and believes that the judge should not assume any other burden than his own diligence, the collection of evidence shall be concluded, and the proceedings shall be published, with a decree issued by the judge on this matter, and with the signatures of the judge, the defender of the marriage, and the clerk. This method must be followed. These documents shall not be communicated to anyone, not even to the spouses or their defenders, before the publication of the proceedings, except to the defender of the marriage, to whom free and unrestricted access to the documents will always be granted." This instruction, concludes the defender of the sacrament, besides preventing the marriage or civil judgment from being turned into a criminal one, has the safest foundation in chapter 2 concerning witnesses and testimonies, according to Clement [Pope Clement XI's instruction, *Eius in condicione*]. With these points established, the purpose is to clarify the matter.

[*Latin ed. p. 677*]

PARIS. 677. Question: Whether the judgment of the Archdiocesan Curia of Paris should be confirmed or rejected in this case.

RESOLUTION. After deliberation on August 21, 1897, the Sacred Congregation judged that the judgment should be confirmed.

FROM THE SACRED CONGREGATION FOR BISHOPS AND REGULAR CANONS OF THE DIOCESE. March 4, 1898.

SUMMARY OF THE CASE. The Bishop of the Diocese of L. presented to the Holy See, on June 16, 1894, the following: In cases of crimes committed by clerics, whether prosecuted by the Curia ex officio or at the instigation of a private accuser, the question of the prescription of carnal offenses frequently arises. On this point, the opinions of the Doctors, both ancient and modern, are varied. Some, such as Reinfestuel and Ferraris, state that carnal offenses are extinguished by a five-year prescription; others, as cited by Farina, Prax. crim. q. 13, by a three-year prescription; others, as cited by Carol. Pellegrini, prax. Vic. p. IV, by a twenty-year prescription. Others, such as Schmalzgrueber, Ius Ecc. un., Buix de iudiciis, and D. Craisson, Manuale Iur. can., maintain that the Roman civil law regarding the five-year prescription of carnal offenses in cases brought ex officio or for the public good against clerics is not accepted. Therefore, the aforementioned Bishop sought a solution to the following questions in order to remove the objections that arose from such opinions and hindered the administration of justice.

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I. Are carnal offenses, committed by clerics, subject to any prescription, so that after a certain period of time has elapsed,

[*Latin ed. p. 678*]

678 FROM THE SACRED CONGREGATION OF BISHOPS AND REGULAR CANONS: And whether it is lawful, either at the instance of a private accuser, or for the sake of public vengeance, to inquire further into a case, or to inflict punishment upon the accused, in matters pertaining to this [matter]; and, assuming that the answer is affirmative: II. What number of years is required for this prescription to take effect? The Sacred Congregation of the Council, to which this controversy was originally presented for resolution, responded in a general meeting on August 22, 1896: "It should be transmitted to the Sacred Congregation of Bishops and Regular Canons." Following this rescript, on March 12, 1897, the question to be examined was proposed to the aforementioned Congregation of Bishops and Regular Canons. However, before it could reach a decision, a vote was requested from one of the most learned officials in the city, regarding this complex and difficult controversy, and the synopsis of his opinion is as follows.

SYNOPSIS OF THE CONSULTOR'S OPINION.

There are authors who absolutely reject the legitimacy of penal prescription, as it is contrary to the nature of punishment and harmful to social order; for if this institution were established, the guilty could always hope for impunity. But, the Reverend Consultor said, this opinion is held by only a few, and in practice, especially in modern positive law, the institution of penal prescription is almost universally accepted, and that in two forms, namely, both the prescription of the action (penal) and the prescription of the punishment itself. This second form of prescription was first introduced by French law in the year 1791, and was adopted in many contemporary codes. However, this is not the case with ancient legislation, and especially with Roman law: in fact, neither in the Pandects nor in the Justinian Code is there any provision for the prescription of punishment, and the Gregorian Code concerning crimes and punishments, articles 39-43, expressly rejects it. Therefore, it is not surprising that this second form of the institution has not been admitted by ecclesiastical law.

However, it is necessary to consider the institution of the prescription of the penal action differently. Among the Romans, it was introduced at the beginning of the Empire, and later, in the time of the most eminent jurists, it was perfected, and it is firm-

[*Latin ed. p. 679*]

From St. Gregory and the Regals, 679: The established principle is that crimes are subject to a twenty-year statute of limitations. A complaint of

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fraud is not excluded by temporal prescription, unless it has been twenty years, just as with other crimes. Leg. 12 Cod. ad leg. Corn., de fals. Certain crimes are excepted from this rule because of their gravity and are excluded from the benefit of prescription, such as parricide, the falsification of birth, and, more recently, the crime of apostasy due to the Christian religion. Secondly, for certain minor crimes, the time for prescription has been limited. Hence, the action for damages is extinguished after one year (leg. 5 Cod. de iniur.), and offenses of the flesh are extinguished after five years (leg. 2 Cod. de vectig. et commis.). This five-year prescription for offenses of the flesh, established earlier in Roman jurisprudence, the Roman Consultor believes to have some connection with the religious institution of the quinquennial lustrum, namely, with that solemn expiatory sacrifice which the Romans were accustomed to perform every five years. The general theory of prescription in criminal actions was accepted by subsequent codes, and the Gregorian Code, while rejecting the prescription of punishment, accepts the prescription of the criminal action, except for crimes against religion and the state. Cf. art. 39-43. In the same way, this prescription can be said to be admitted in Canon Law, the Consultor adds. Certainly, no explicit text of ecclesiastical law is found on this subject, and only in cap. 6, De cum, title 25, de excep., book 2 of the Decretals, is mention made of a twenty-year prescription according to Roman law. In that chapter, it is stated that an exception of fraud is not prescribed, unless after the lapse of twenty years: which, indeed, has a connection with the law mentioned above, leg. 12 Cod. ad leg. Corn., de fals. But although no explicit text of canon law exists on this point, it has come about, through this connection with Roman law, that ecclesiastical jurisprudence has embraced the theory and provisions of Roman law regarding the prescription of the criminal action.

[*Latin ed. p. 680*]

680 From the Sacred Canons and Regulations, and excluding certain other offenses from prescription, such as duels, the crime of lese majesty, assassination, the crime of false coinage, heresy, simony, extortion, abortion, and also simony, according to Farina, *Practices Criminales*, question 10, numbers 29 and 30; Carpzov, question 141. This doctrine is common among interpreters of canon law: it is sufficient to cite the authorities whom Bishop L. also cites in the aforementioned letter, Reinfestuel, *Universal Canon Law*, volume 2, title 20, number 179; Ferraris, *Usucapio*, paragraph 5, number 39; Farina, *Practices Criminales*, question 10; Schmalzgrueber, *Ecclesiastical Law*, volume 5, paragraph 1, number 121, and to which may be added De Angelis, Gentilini, *Lectures on Canon Law*, volume 4, pages 263 and 341, number 2, and Santi, *Title on Prescription*. Indeed, Farina, in the aforementioned chapter, examining the question of why the theory of *romani* law regarding the prescription of criminal actions has been introduced even in the ecclesiastical forum, adduces this reason: because the

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civil law is not found to be corrected by the canons in this matter. The recent author Maupied, *Universal Compendium of Canon Law*, page 5, book 13, chapter 10, paragraph 1, disagrees with the common opinion of the Doctors, stating: "In canon law, the criminal accusation is extinguished only by the death of the accuser or the accused before a final sentence. However, in civil law, by prescription, the crime of carnal offenses is extinguished after five years, and the crime of rape and adultery after twenty years, etc." The *romani* Consultant criticizes this author as being either insufficiently learned, or rather, not properly consulting the sources of canon law, and points out the confusion between simple adultery, which was subject to a five-year prescription, and adultery combined with incest, which was extinguished by a twenty-year prescription, according to the aforementioned laws. Furthermore, it is not permissible to admit a discrepancy among the Doctors regarding the length of time in the prescription of criminal actions, as if Bishop L. would suggest in the aforementioned letter. Indeed, Reinfestuel, Ferraris, and others agree on establishing a period of twenty years for offenses in general, and five years for carnal crimes, but even Farina, whom we have cited several times in question 10 of his *Practices Criminales*, resolves this controversy in that manner.

[*Latin ed. p. 681*]

FROM S. G. E P. AND REGULÆ 681 n. 1. Rule one. Crimes, both public and private, are subject to a statute of limitations of twenty years, and n. 15 1. c. these crimes (crimes of the flesh) are not only subject to prescription like other crimes, but also the accusation and action against them are extinguished within a shorter period, namely five years. Compare Pirhing, *Ius can. univ.*, book 5, title 1, who cites Farina. Compare Pichler, *Ius can. un.*, book 5, title 16, n. 9; Schmalzgrueber, *ius eccl. univ.*, book 5, title 1, § 12; and finally, Carol. Pelleg., who, if in the cited place in his *Practices Vic.* he says that a period of twenty years is required for the prescription of criminal action, it is because he was there speaking of crimes in general, and not specifically of crimes of the flesh, as is evident from the texts cited by him in chapter 6, concerning exceptions and the law of *Querela falsi* in the *Codex de falsis*. Therefore, the authors cited by the aforementioned Bishop are to be understood in a completely different sense. Rather, if any discrepancy is admitted among the canonists, it concerns the extension of the prescription of criminal action, with some arguing that it only applies to crimes at the instance of a private accuser, and to others even when proceedings are initiated *ex officio* or for public vengeance. This discrepancy also exists among interpreters of Roman law, as is stated in Farina, I. c. n. 3 and 4, and is to be found in the gloss on law 12 of the *Codex ad leg. Cornei, de falsis*, where it is said that in the crime of forgery, the right to inquire lasts for thirty years. From this, some interpreters, such as Fleck, *B ibi. iur. civil*, book 6, title 1, and Banniza, *D is quis. ex iur. crim. de praescr.*,

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cont. iudic, ex offic. inq., loc. non hab., whom Schmalzgrueber, Bouix, and Craisson later followed; and most recently, Gentilitii in the continuation of the work *De Angelis*, volume 4, p. 263, have deduced that the prescription of criminal action does not apply to crimes in which the judge proceeds *ex officio*. But this is certainly not the prevailing doctrine among the Doctors. Farina, l.c. n. 3, states the common opinion that the prescription of criminal action applies in both cases, on the grounds that the inquiry succeeds the accusation, and just as the accusation is extinguished by prescription, so too is the inquiry.

[*Latin ed. p. 682*]

682 FROM THE SUPREME GREGORIAN OFFICE AND THE RULES, it is necessary [to consider this], otherwise, what is directly prohibited would be conceded indirectly, and speaking of the aforementioned gloss, it says that it is commonly rejected, because it is true that, after twenty years, a judge cannot, by virtue of his office, inquire into the crime of perjury. Pirhing agrees in *Titulus de praescripta*, no. 126; Reinfestuel, I, chapter; and, significantly, Father Bordoni, formerly a Consultor to the Holy Office, in his works, volume 5, chapter 82, sections 4 and 39, where, after speaking of the five-year prescription for crimes of the flesh and the twenty-year prescription for crimes in general, he adds: "Whether the judge proceeds in the case in any way, whether by virtue of his office or at the request of a party..." The aforementioned principles also apply to Regular Canons. From what has been explained so far, the Reverend Consultor concludes that among canonists there is a common doctrine that 1° the prescription of the penal action is to be admitted in criminal cases in ecclesiastical courts; 2° that this applies whether the judge proceeds at the request of a private accuser, or by virtue of his office, or for the sake of public justice; 3° that the established time for prescription for crimes in general is a period of twenty years, and five years for crimes of the flesh in particular, except for some more serious crimes which are excluded from prescription. But now, the Reverend Consultor continues, we must see whether this doctrine accepted by canonists corresponds to the practice of the ecclesiastical forum, and, significantly, the Holy Congregation. First of all, the Holy Congregation recalls that in the year 1800, on October 30th, the Supreme Pontiff Pius VII, in his Constitution *Post Diuturnas*, under the title concerning the jurisdictions of tribunals and ecclesiastical judges, decreed that all criminal cases originating from ecclesiastical courts should no longer be referred to the Apostolic Tribunal, as previously, but to the Congregation of Bishops and Regular Canons. From that time, this Holy Congregation began to exercise jurisdiction in criminal matters, which previously belonged only to the Apostolic Tribunal. The Consultor diligently notes that the archives of the Apostolic Tribunal were lost during the period of usurpation, and therefore, the elements for establishing practice in the ecclesiastical crim-

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inal forum could only be drawn from this Holy Congregation, as he also observes, o.

[*Latin ed. p. 683*]

FROM the Decrees and Regulations, 685, it is stated that the exception of prescription could rarely be raised in criminal cases when proceedings were being taken on appeal to the second instance. Furthermore, it is established that Canonists are accustomed to continuously follow the evolution and decisions issued in the ecclesiastical forum, and to present doctrine conforming to these; hence, the fact that prescription of a criminal action is admitted by Canonists implies that it has also been admitted by ecclesiastical tribunals; and this is all the more so because this prescription is also admitted by the organic law concerning criminal matters, issued by Gregory XVI on November 5, 1831, and is not revoked in any way in the appendix attached to the same law for ecclesiastical courts. With these preliminary remarks to clarify the matter, the Reverend Consultor confirms his opinion by citing several letters from this Sacred Congregation. First, there are two *Litterae*, one addressed to the Bishop of Tiburtinum, dated June 20, 1831, in which, when speaking of certain accusations, he calls them "antiquated"; in another letter addressed to the Bishop of Foroliviensem, it is expressly stated that prescription arises after the lapse of five years in the case of sins or carnal offenses; these two letters are extensively quoted in the *Ephemerides Analecta Iuris Pontificii*, f. XII, 1132, and XX, 718. Furthermore, the fact that the lapse of time is greatly considered by this Sacred Congregation is demonstrated by other letters from the same Sacred Congregation. Thus, in a letter dated June 26, 1826, addressed to the Reverend Bishop of Senogallia, accusations against the Bishop of Fanensis are, among other things, rejected because they are antiquated and have fallen into disuse; in a letter dated March 3, 1823, addressed to the Bishop of Tolentinata, certain imputations made against a parish priest are rejected because they are of ancient times; in a letter dated February 11, 1833, addressed to the Reverend Archbishop of Firmanum, certain accusations were not accepted because they were based on ancient facts. Finally, in a letter addressed to the Archbishop of Camerinensis, Administrator of Treia, dated June 30, 1827, it is stated that, after extrajudicial proofs concerning the defloration of a girl, and after her capture or arrest, it is necessary...

[*Latin ed. p. 684*]

684. From the Holy General Council and the Regulations, the judicial process, although five years have passed since its commencement. The completion of this process was assigned to the Bishop of Ascoli by another letter of the same date, and in this letter, the necessity of proceeding with the aforementioned crime is also explained, even though five years have passed since the commission of the offense. The Reverend Consultor appropriately

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observes in this latest letter that the process is not being pursued at the request of a party, but ex officio, and yet there is an indication of a five-year prescription, which, if it cannot be opposed, must be either because the five years have not elapsed, or because this period has already been interrupted by the capture of the defiled girl. Having established and proven the existence of the prescription of the penal action in ecclesiastical criminal cases, the Reverend Consultor proceeds to elucidate its very legal nature. He notes that such an examination cannot be carried out according to the principles of modern criminal science, but that the norms must be derived from Roman and canon law: indeed, according to this law, the prescription of the penal action is not regarded as a new institution as in modern laws, but is subject to the same rules as the prescription of the civil action. It is well known that the requirements of this prescription are two principal ones, namely, the lapse of time established by law and good faith. Regarding the first requirement, as stated above, five years is established for crimes of the flesh in general, and twenty years for crimes in general. But when does this time begin to run in the prescription? the Consultor asks. In Roman law, there is the principle that time is to be reckoned from the day on which something was admitted, leg. 29, § 7, D. ad leg. Iul. de adult. Therefore, 1° if the matter concerns a consummated crime, the prescription begins to run from the day the crime was consummated. 2° If the matter concerns an attempted crime, the prescription begins with the acts constituting the attempt at the crime. 3° Finally, if the matter concerns a continuing crime to which the consummation requires several successive acts, the prescription does not run until the consummation of the crime, or until the cessation of the continuation of the offense. Schmalzgr neh er I. c. and other canonists, in crimes which are successive and committed perniciose.

[*Latin ed. p. 685*]

From St. Gregory's Epistles and Canons, 685, it is stated that no prescription [of a right] is valid unless from the time when the offense ceases. This, let it be considered, presents the greatest difficulty for the theory of prescription concerning penal actions, because, in the case of a crime consummated or attempted within a certain period of time, the perpetrator is presumed to have returned to a state of good standing. The question is among Doctors whether the principle for beginning the prescription of a penal action, as mentioned above, should be from the day of the commission of the crime, even in cases of hidden crimes. Some deny this, arguing that the principle "that which is not known does not run" is valid, and therefore they maintain that in such crimes, the prescription of the penal action begins to run from the day the accuser or prosecutor becomes aware of it. Others, following the principles of modern codes, affirm that the beginning of the prescription of the penal action takes place absolutely from the day of the commission of the crime, independently of the knowledge of

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the accuser or prosecutor, according to the aforementioned principle that time is to be reckoned from the day the act was committed. Among these opposing opinions, a *media* [intermediate] position is held, and is proposed by Ferran Gargias in *Consilia Farinae*, in the first part, concerning various crimes, 124, number 18, and in the cited question 10, number 13, he says: "In practice..." According to this opinion, if the crime is so hidden that the prosecutor, or the crime itself, can come to the knowledge of the prosecutor through diligent and general investigation, then the prescription runs even against the ignorant, because the court or the prosecutor must impute to themselves the fact that they failed to inquire; but if the crime remains so hidden that an investigation cannot reveal it, even after diligent inquiry, then it is more true that the prescription does not run at all from the day of the crime, but rather... This opinion, which has been held in good standing until 1831, is testified to by Raphael Alains in his *Praxis Criminalis*, number 17, Regulation 3, who, as a consultant, exercised his profession not only before the Tribunal but also before this Holy Congregation. Then, the Reverend Consultant refutes the opinion of some, who, following chapter 5 on Custom in the Decretals, maintain that the judge always retains the full right to proceed against the offender, whenever the salvation of souls or the dignity of the order requires it.

[*Latin ed. p. 686*]

686 Regarding the Supreme Sacred Congregation and the Canon Law. Indeed, there is a great difference between a custom introduced for the good of the entire community and a prescription that pertains only to a private good. Therefore, it was prudent for the Prince to condemn preventively those customs by which the social order would be disturbed, or from which the nerve of ecclesiastical discipline would be disrupted. But this danger is absent in penal prescription. For either it concerns manifest crimes, or those so hidden that they can easily be detected, and then the fault lies with him who, having the right and duty to inquire or accuse, did not exercise it within a prescribed time; or it concerns a crime that is totally hidden, and then no danger of scandal can be feared; and given that the crime becomes manifest with the passage of time, the accuser or investigator retains the full time to proceed against the offender. Finally, in order for prescription to be validly invoked, it is required that the entire time has elapsed, and indeed day by day, or that it has not been interrupted, either by a complaint or an investigation, or by any other act of proceeding; thus, Farin. Lc. n. 28: "Prescription does not apply when, before the completion of prescription, the accuser has filed a complaint or a bill of accusation, or when the treasury, and, if it insists, the judge ex officio, has instituted an investigation; in such cases, prescription is interrupted, even without a citation, although it is different in civil matters." Regarding the second requirement, namely good faith, the Reverend Consultor observes that good faith is required in

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acquisitive prescriptions, and in those that extinguish rights, in which the one prescribing must perform a positive act; but it is not required in those in which prescription proceeds from the non-exercise of a right against which prescription is asserted, and which do not require any positive act on the part of the one prescribing, as in easements. In these cases, either no good faith is required, or, if it is required, it consists in not hindering the exercise of another's right. This last category precisely applies to penal prescription, so that the question of good faith is superfluous, and in fact, criminal lawyers do not inquire about it.

[*Latin ed. p. 687*]

Concerning these matters debated regarding the nature of penal prescription, the Reverend Consultor explains its effects, the first of which is that it completely extinguishes the penal action, and the accuser or inquisitor can no longer pursue it. However, in order for prescription to take effect, it must be raised by the delinquent; otherwise, through the delinquent's acquiescence to the accusation or inquiry, it is revived. *Farinae, I. c., n. 35; Ala I. c. num. 29.* A second effect of this prescription is that, when raised, it nullifies criminal effects, but not canonical ones; therefore, the civil action always remains intact. Finally, although prescription extinguishes the penal action, so that it can no longer be inquired into against the guilty party in the future, it does not remove the right to raise it as a defense, and the crime, even though prescribed, can always be brought against the guilty party, according to the well-known adage: "Temporal things are for acting, but eternal things are for defending." Hence, for example, if there were a question of concurrence, or option, or election for some office, benefice, etc., it can always be brought against the guilty party through the means of exception, to prove his unworthiness, even though the crime has been duly prescribed. This is a summary of the deliberations: after which, the following questions were proposed for clarification:

I. Are crimes committed by clerics subject to any prescription, so that after a certain period of time has elapsed, they can no longer be inquired into, nor can the guilty parties be subjected to punishment, whether for the satisfaction of a private accuser, or for public vengeance, or because it is fitting ex officio? And, assuming an affirmative answer:

II. What number of years is required to induce this prescription?

RESOLUTION. On March 4, 1898, the Sacred Congregation of Bishops and Regulars, after mature discussion, issued a decision according to the opinion of the Reverend Consultor, and ordered it to be notified to the Bishop of the diocese of L. through the following letter:

[*Latin ed. p. 688*]

688 To the Most Illustrious and Most Reverend Fathers, Prelates, and Regular Canons of the Roman Lordship, concerning the letter of Your Em-

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inence dated June 16, 1894, which was sent to this Holy Congregation for Matters and Consultations of Bishops and Regulars, entrusted with this matter, in order that, possessing the competence proper to this Congregation in matters concerning the clergy, it might decide what should be held regarding the question proposed, concerning the prescription of crimes against chastity in criminal cases involving clerics. After diligent deliberation and after meetings held on March 4, 1898, the Most Reverend Fathers decided to hold the following: that, indeed, prescription has force in ecclesiastical criminal cases, and that, not only when the judge proceeds at the instance of a private accuser, but also when he inquires for the public good or ex officio; and that the proper effect of this prescription is to extinguish only the penal action, provided that prescription has been expressly raised in court by the accused or the person investigated, or by his procurator. From this, it is easily understood that the right to accuse and to investigate remains intact as long as prescription is not expressly raised, and that the judgment must be maintained if it has not been raised at all. But if prescription is brought forward in court and is recognized as legitimate, then it does extinguish the criminal action, but not the civil action, which may arise from the same offense; and therefore, notwithstanding prescription, the guilty party remains subject to all the canonical effects, other than those of a criminal nature, that result from the committed offense, which is manifestly the law. Indeed, even if the penal action is extinguished by prescription, the exception does not cease, which always remains according to the words of the law: "Temporal things are for acting, but eternal things are for excusing" – therefore, that offense, even if prescribed, can always be raised against the guilty party by way of exception, and it is valid if he were to seek ecclesiastical offices.

[*Latin ed. p. 689*]

EX 689 S. G. E P. ET REGUL. Concerning the time necessary for the aforementioned prescription, the general rule is that actions involving injuries are subject to a prescription of one year, the crime of peculation [embezzlement] and crimes of the flesh are subject to a prescription of five years from the day the offense was committed. However, if the offenses are successive and continuing, no prescription applies to them, except from the day the offense ceases; and if the offense has been totally concealed, the prescription begins not from the day the crime was committed, but from the day the accuser or investigator became aware of it. Finally, it must not be overlooked that crimes of rape, violent assault, and adultery joined with incest are subject to a prescription of twenty years; whereas crimes of procured abortion, parricide, assassination, lese-majesty [treason], dueling, counterfeiting, apostasy, heresy, simony, conspiracy, abortion, and sodomy are never subject to prescription, so that the perpetrators of these crimes can always be accused and investigated while they

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live. Having related all of these matters to Your Most Illustrious Lordship in an audience held by the undersigned Cardinal Prefect on March 21, 1898, His Holiness has deigned to approve the judgment of the Fathers. I have made this known to Your Eminence, to whom I pray that all good and prosperity may be granted by God. Rome, March 22, 1898. FROM THE HOLY CONGREGATION FOR RITES OF THE CITY AND THE WHOLE WORLD. The aforementioned decree is found in the first volume of the new collection of decrees of the Holy Roman Church. His Most Holy Lord, Pope Leo XIII, by whose order and authority the Sacred Congregation of Rites publishes decrees selected from its records, revised and printed, in an audience, signed on the aforementioned day, by the undersigned Cardinal of the aforementioned Congregation. Acta, Vol. XXX, fasc. CCCLIX, 4A.

[*Latin ed. p. 690*]

Having heard the petition presented by the Prefect of the Congregation for the Propagation of the Faith, the Holy See approved the collection of decrees contained in the present volume and in those to be published shortly, declaring them authentic, and furthermore, it decreed that the decrees previously in circulation, which are inconsistent with those inserted in this collection, should be considered abrogated, except only those which pertain to indulgences or privileges granted to particular churches. Moreover, the same Most Holy Lord ordered that the present decree be published in its authentic form, and that it be prefixed to this edition, printed by the Sacred Congregation of the Propagation of the Faith, notwithstanding any contrary provisions, even those deserving of special mention. February 19, 1898. CAMILLUS CARD. MAZZELLA, S. B. C., Prefect. L. S. DIOMEDES PANICI & R. C., Secretary. NULLIUS, TERRITORIAL ABBEY OF MONTECASSINO. Grant to the priests of both orders to mention the Abbot in the Canon of the Mass. In the Territorial Abbey of Montecassino, of the Diocese of Atina, to which has recently been added, under the title of Praepositura, in the Canon of the Mass, at the words: "and with our Bishop N.," the name of the Abbot is expressed according to an ancient oral and written tradition, never interrupted and supported by numerous arguments. Therefore, in order that such a custom, being different from common law, might be confirmed by a special Apostolic privilege for the sake of the outstanding dignity of the abbatial See, the present Abbot of Montecassino and Praepositus of Atina, through a humble petition presented to the Congregation of Sacred Rites, having set forth all that he deemed relevant and useful to the matter, earnestly requested the Most Holy Pope Leo XIII, for himself and his successors, that the name of the Abbot of Montecassino and Praepositus of Atina might be expressed in the Canon of the Mass, in accordance with the custom observed for so many centuries until this time. And since, by order of the same Most Holy Lord, the Sacred Congregation of Rites carefully examined all matters, even at the insistent request of the

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Liturgical Commission, and published them together with the aforementioned petition, in a volume, along with a response from the Most Eminent and Reverend Cardinal Hieronymus...

[*Latin ed. p. 691*]

FROM the Sacred Congregation of Rites, 691, concerning the Relator of the Cause, in the Ordinary Session held at the Vatican on the date indicated, the following was proposed: Whether priests of both rites, who are under the jurisdiction of the Abbot of Montecassino, may name the Abbot himself in the Canon of the Mass, as they have done for a very long time? It was decided to respond: Affirmative, with the words: "With our Bishop," even by the Regular clergy, and with the aforementioned words, before the Most Holy. April 26, 1898. Subsequently, these matters were reported to our Most Holy Lord, Pope Leo XIII, by the undersigned Prefect of the Sacred Congregation of Rites, and His Holiness approved and ratified the decree of the aforementioned Sacred Congregation on the 29th of the same month and year. CAMILLUS CARD. MAZZELLA, Prefect of the Sacred Rites. L. * S. DIOMEDES PANICI, Secretary of the Sacred Rites. OF THE TERRITORY OF NONANTOLA. Indult granted to the priests of the Abbey of Nonantola to name the Archbishop of Modena in the Canon of the Mass, as they have hitherto done. It is a long-standing custom in the Abbey of Nonantola, which is under no diocese, in the Province of Ravenna, that the priests, at the words "And with our Bishop," add the name of the Archbishop of Modena, who is the Abbot Commendatory of that Abbey, and who is also the nearest bishop from whom the clergy of Nonantola likewise receive the sacred orders. Having arisen a doubt concerning the legitimacy of this custom, the Reverend Mr. Anthony C., General Vicar of the aforementioned Abbey, humbly requested a necessary and appropriate declaration from the Sacred Congregation of Rites. And the Sacred Congregation, after a careful consideration of the opinion of the Liturgical Commission, and after taking into account certain particular circumstances, concerning the doubt raised by the Reverend and Most Reverend Mr. Jerome Gotti, Relator of this Cause, in the Ordinary Sessions held at the Vatican on the date indicated, the following was proposed: Whether the priests of the Abbey of Nonantola, in the Province of Ravenna, may name the Archbishop of Modena in the Canon of the Mass, as they have hitherto done? It was decided to respond: That there is no cause for concern. April 26, 1898. This resolution, having been reported to our Most Holy Lord by the undersigned Prefect of the Sacred Congregation of Rites,

[*Latin ed. p. 692*]

692 By decree of the Sacred Congregation for Rites, Pope Leo XIII approved and confirmed this on the 29th of the same month and year. CAMILLUS CARD. MAZZELLA, Prefect, 5th Order of Cardinals. L. S. DIOMEDES

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PANICI, Secretary of the Sacred Congregation. ADDITIONS to the Roman Martyrology. On the 7th of September (the 7th of the Ides of September), at Nonantola, in Emilia, Saint Hadrian III, who distinguished himself by his efforts to reconcile the Eastern and Roman Churches. He died most holily at Spini and was renowned for miracles. On the 16th of October (the 17th of the Calends of November), at Cassini, Blessed Victor III, who succeeded Gregory VII, and who, through divine assistance, achieved a notable victory over the Saracens, illuminating the Apostolic See with new splendor. Pope Leo XIII approved and confirmed the cult which had been offered to him from time immemorial. On the 8th of July (the 8th of the Ides of July), at Rome, Blessed Eugene III, who, after having governed the monastery of the Most Holy Vincent and Anastasius, at Aquas Salviae, with great piety and prudence, was proclaimed Supreme Pontiff and most holily governed the entire Church. Pope Pius IX approved and confirmed the cult offered to him. On the 19th of August (the 14th of the Calends of September), at Rome, Blessed Urban II, who, following in the footsteps of Saint Gregory VII, devoted himself to the study of doctrine and religion, and stirred up the faithful, marked with the sign of the cross, to liberate the holy places of Palestine from the power of the infidels. Pope Leo XIII approved and confirmed the cult offered to him from time immemorial.

[*Latin ed. p. 693*]

FROM the Sacred Congregation of Rites, on the 22nd of June (the tenth day before the Kalends of July), in Rome: of Blessed Innocent, Pope, who, with gentle prudence, labored to defend the liberty of the Church and the concord of Christians. Pope Leo XIII approved and confirmed the cult offered to him on the 19th of December (the fourteenth day before the Kalends of January). In Avignon, of Blessed Urban, Pope, who, after the restoration of the Apostolic See in Rome, perfected the union of the Greeks with the Latins, and subdued the infidels, and who did much good for the Church. Pope Pius IX approved and confirmed the venerable cult of him.

Furthermore, in Rome, present were the Most Reverend Monsignors Hildebrand de Hemptinne, the Primate Abbot of the Order of Saint Benedict; Sebastian Wyart, the Abbot of the Seven Fountains, General of the Reformed Cistercian Order; and Andrea Frühwirth, the Master General of the Order of Preachers; the Most Holy Pope Leo XIII, after consultation with the Sacred Congregation of Rites, and upon the recommendation of the undersigned Cardinal Prefect, approved and ordered that the Elogies of the Supreme Pontiffs Saint Hadrian III, and the Blesseds Victor III, Eugene III, Urban II, Innocent V, and Urban V, revised and corrected by that very Sacred Congregation, as shown in the preceding example, be inserted into the Roman Martyrology; notwithstanding the decree of the Most Holy Pope Clement XII, issued on the 6th of March in the year 1734, and all other things to the contrary.

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On the 29th of April, 1898.

C. CARD. MAZELLA, Prefect of the Sacred Roman Congregation.

L. * S. DIOMEDES PANICI, Secretary of the Sacred Roman Congregation.

[*Latin ed. p. 694*]

694 FROM THE SACRED CONGREGATION FOR RITUALS, a decree is granted to the secular clergy of the City, and to the Regular clergy of both sexes, within the City or outside of it, who use the Roman Clerical Calendar, to observe the feast of Saint Innocent V on the 22nd of June. OF THE CITY. After consultation with the Sacred Congregation of Rites, the Most Holy Pope Leo XIII, with supreme authority, recently confirmed the cult rendered to the Blessed Innocent V, Pope and Confessor, which has been performed without interruption from time immemorial; the Eminent and Illustrious Cardinal Lucidus Maria Parocchi, Bishop of Porto and Santa Rufina, and Vicar of the Most Holy Pope in the City, implored the same Most Holy Pope, that, in addition to the three Patriarchal Basilicas, the feast of the same Blessed Pope and Confessor might be observed by the secular clergy of the City and of this District, as well as by other Regular clergy of both sexes, within the City or outside of it, who use the Roman Clerical Calendar, with a lesser double rite, on the twentieth-second of June, with Office and Mass, on this day approved. Furthermore, his Holiness, having graciously approved the prayers presented by the undersigned Cardinal Prefect of the Sacred Congregation of Rites, decreed as follows: observing the rubrics. Contrary decrees notwithstanding. April 29, 1898. C. CARD. MAZZELLA 5. B. C. Pref. L. © S. DIOMEDES PANICI .S. R. C. Secretary. ALIA ELOGIA to be inserted in the Roman Martyrology. On June 17th. (Sixteenth Calends of June) At Villa Regale in the Kingdom of Valencia, Saint Paschal of the Order of the Friars Minor, a man of wondrous innocence and penance, whom Leo XIII declared the heavenly patron of the eucharistic congresses and societies devoted to the Most Holy Eucharist. On July 5th. (Third Nones of July) At Cremona in Insubria, Saint Anthony Maria Zaccaria, Confessor, of the Clerics Regular of Saint Paul and the Angelic Virgins.

[*Latin ed. p. 695*]

From Sacred Regulations 695, concerning the Founder of an Institute, whom Leo XIII, distinguished by all virtues and miracles, included among the Saints. His body is venerated in Milan, in the Church of Saint Barnabas. On December 9th (the fifth of the Ides of December). In Burgundy, Saint Peter Fourier, a Regular Canon of Our Savior, and Founder of an Institute for the instruction of girls by Regular Nuns of Our Lady, whom Leo XIII added to the catalogue of Saints. In Newcastle and Meneven. Regarding the question of whether a certain office is to be performed according to the decree,

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it is prescribed that Mass must be celebrated as indicated by the liturgical calendar of the Church in which it is celebrated (1). The Most Reverend Lord Cuthbert Hedley, of the Order of Saint Benedict, Bishop of Newcastle, humbly presented the following to the Sacred Congregation of Rites: I. In England, there are neither parishes strictly so-called, nor benefices to which is attached the obligation of reciting the Divine Office; rather, each church has one or more priests attached to it, who, residing there, perform quasi-parochial duties within the territory, or (as they say) within the missionary district of that church, by reason of their office. II. Rectors of churches are either removable at the will of the Bishop, or are not removable except by a prior canonical process or by a voluntary resignation accepted; all vicars, or assisting priests, are removable at the will of the Ordinary. III. Very few churches throughout England have been consecrated; the others have been blessed under the invocation of the titular saint; sometimes, indeed, the faithful (lacking a sacred building) are gathered together to hear Mass and to receive the Sacraments in a school or other suitable hall designated by the Ordinary as a public oratory. Therefore, the same Most Reverend Bishop, earnestly desiring to arrange all matters pertaining to the divine worship in his diocese in accordance with the decrees of the Sacred Congregation of Rites, earnestly requested: (1) You have the aforementioned decree in Volume XXVIII, page 458.

[*Latin ed. p. 696*]

696 From the Sacred Congregation of Rites, I. Is it the opinion that, among the English, in churches, the secular diocesan calendar, approved by the aforementioned Sacred Congregation and published each year by order of the Ordinary, to which the feasts of the titular saint, dedication, and other (if any) granted by the Holy See have been added, is to be considered the calendar of each church, so that every celebrant, when performing the sacred rites, and the priests of the church, even when reciting the Divine Office, must conform to it? II. Is it permissible for religious orders, if, at times, the administration of a secular church is entrusted to them temporarily, along with the care of souls, to perform the sacred functions according to the order of the calendar of their own religious congregation, setting aside the diocesan calendar to which the people have already become accustomed? III. Is a religious priest, sometimes appointed to a secular church, either temporarily or at the pleasure of the Bishop (with the consent of the Superior Religious), and who recites the canonical hours privately, nevertheless obligated, according to the decrees of the Sacred Congregation, to observe the Office of the titular saint of the aforementioned secular church, and that indeed under the rite of the double first class with the Octave? IV. Furthermore, if a secular priest is entrusted with the administration of a regular church without a specified term, is it permissible for him, after removing the

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calendar of the religious order, which the clergy of that church have hitherto used, to order the Masses and public offices according to the diocesan calendar? V. What is to be decided concerning the calendar of those districts (whether they are by right of the secular clergy, or by right of the regular clergy), where the church is not yet built, and the people are gathered for the sacred rites in buildings not intended for worship, except temporarily? VI. Since it often happens (by virtue of a privilege granted by the Holy See) that canons of the cathedral church are assigned to parishes with the care of souls and the obligation of residence in churches separate from the cathedral, and not dependent on the cathedral, is it permissible for the canon rector of such a parish to perform the Divine Office, either according to the calendar of the cathedral or, rather, according to the calendar of the church to which he has been assigned in this manner, either permanently or for the duration of his life? VII. Are assisting priests or vicars obligated in the private recitation of the Divine Office to conform to the calendar of the church to which they belong? VIII. Is it permissible for the canon rector, as long as he—

[*Latin ed. p. 697*]

From the Sacred Congregation of Rites, number 697: It is inquired whether it is permissible for the Cathedral Chapter, by its own authority, to establish a calendar for the Church and the Missionary District, or quasi-parish, so that, as it were, the Mass does not differ from the Office?

IX. Whether the Office of Vespers, customarily sung publicly on Sundays and feast days, should be ordered according to the calendar of the Church in which it is celebrated, or rather, should be in accordance with the Office recited privately by the Rector of the Church, with the greatest possible parts being performed each week?

And the same Sacred Congregation, upon the report of the undersigned Secretary, and with the careful consideration of the vote of the Liturgical Commission, and after mature deliberation, decided to respond as follows:

To I: Affirmative.

To II: Negative.

To III: Negative.

To IV: Affirmative.

To V: The diocesan calendar is to be used.

To VI: Negative to the first part, Affirmative to the second.

To VII: Affirmative.

To VIII: Negative.

To IX: Affirmative to the first part, Negative to the second.

And thus it responded on February 4, 1898.

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C. CARD. MAZZELLA

Prefect.

R. C.

S. DIOMEDES PANICI, Secretary.

From the Sacred Congregation of the Index.

Doubts proposed concerning the Constitution of Offices.

The following doubts have been proposed to this Sacred Congregation of the Index concerning the Constitution of Offices, namely:

1. Whether the words of article V: "those who are engaged in theological or biblical studies" should be understood only of learned men devoted to those sciences, or whether they can be extended to all beginners in Sacred Theology?

[*Latin ed. p. 698*]

698 FROM THE INDEX OF PROHIBITED BOOKS, QUESTION 2. Are works (which are numerous) infected with errors, condemned by the Syllabūs, and prohibited by the words of article 14, to be considered as containing errors condemned by the Apostolic See? 3. Whether excerpts from periodicals, published separately (commonly called "tirages à part"), ought to be considered as new editions, and therefore require a new approval, as required by article 44? 4. Whether the aforementioned Constitution has binding force also for regions of the British language, which some believe enjoy a tacit dispensation? The Holy Congregation was ordered to provide answers to all, after mature deliberation, on May 19, 1898. To question 1: Negatively, in part; affirmatively, in the second part. To question 2: Affirmatively, if these errors are defended or promoted. To question 3: Negatively. To question 4: Affirmatively. Given in Rome, from the Secretariat of the aforementioned Holy Congregation of the Index, on May 23, 1898. m a m a m m m m -==»£&%<&3-^=^ FROM THE HOLY CONGREGATION FOR EXTRAORDINARY ECCLESIASTICAL AFFAIRS: AUTHENTIC DECLARATION regarding the meaning of the denomination of "Indians and Negroes" in the Apostolic Letters "Trans Oceanum," of April 18, 1897 (Concerning the Privileges of Latin America). (1) FROM THE AUDIENCE OF THE HOLY FATHER. On May 24, in the year 1898. Since the question has arisen as to what the names "Indians and Negroes" should be understood to mean in the Apostolic Letters "Trans Oceanum" published by His Holiness Pope Leo XIII on April 18, 1897, the Same Holiness, after being informed by the undersigned Secretary of the Holy Congregation for Extraordinary Ecclesial Affairs, has deemed it fitting to declare the following: In the aforementioned Apostolic Letters "Trans Oceanum," the names "Indians and Negroes" are used with the same meaning as in (1) These

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letters were cited in Vol. XXIX, 659.

[*Latin ed. p. 699*]

Following the aforementioned papal constitutions concerning this matter, especially in the constitutions of Alexander VIII, *Animarum saluti*, dated March 30, 1690, and of Benedict XIV, *Cum Venerabilis*, dated January 27, 1757, namely: I. Under the names of "Inclorum" and "Nigritarum," besides the Indians and Negroes themselves, are also included those who are born of an Indian or Negro and a European woman (or of European blood), as well as those born of a European man and an Indian or Negro woman, and who are therefore called "Mixti," "Mestitii," or "Mutati," and who possess the absolute half of European blood. However, those who derive their origin from Indians or Negroes only through a grandfather or grandmother, and who are called "Quarterones," are not included, since they possess only the fourth part of Indian or Negro blood; and much less those who derive their origin from Indians or Negroes only through a great-grandfather or great-grandmother, and are commonly called "Puehueles" or "Pueuelles." II. Furthermore, by the names of "Inclorum" and "Nigritarum" are also understood Africans, Asians, and Oceanians, provided that they are not of European blood, and who reside in Latin America, even if they were not born there. And thus, His Holiness has commanded that this be made known and observed, with all contrary things being entirely disregarded. Given at Rome, from the Secretariat of the aforementioned Sacred Congregation, on the day, month, and year mentioned above.

[Signed] FELIX CAVAGNIS, Secretary of the Congregation for Extraordinary Affairs.

[Signed] EX S. CONGR. S. R. U. INQUISITIONIS. Concerning the conferring of baptism upon adults at the point of death. Thursday, March 30, 1898. The following doubt was presented to this Most Holy Congregation of the Holy Roman and Universal Inquisition for clarification: Whether a missionary can confer baptism upon a Muslim adult, who, being considered to be in good faith, is presumed to be in error:

[*Latin ed. p. 700*]

700 FROM THE SACRED CONGREGATION OF THE INQUISITION, I. If he still has full understanding, only exhort him to repentance and confidence, saying nothing about our mysteries, for fear that he might not believe them; II. Whatever his understanding, say nothing to him, since on the one hand it is presumed that he does not lack contrition, and on the other hand, it is prudent not to speak with him about our mysteries; III. If he has already lost his understanding, say absolutely nothing to him. In the General Congregation held by the Most Eminent and Reverend Lords Cardinals Inquisitors General, concerning the aforementioned doubt, and after the vote of the Most Reverend Consultors, the Most Eminent Fathers

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ordered that the following be answered: To I and II, negatively, that is, it is not permitted to administer baptism, either absolutely or conditionally, to such Mahometans, about whom the first and second questions are asked; and the decrees of the Holy Office were given to the Bishop of Quebec on January 25th and May 10th, 1703 (1), and the Instruction of the Holy Office on June 6th, 1860, to the Apostolic Vicar of Tche-Kiang. (1) Concerning the dispositions of the aforementioned decrees of January 25th, 1703. — It is asked whether, before baptism is conferred upon an adult, the minister is obliged to explain all the mysteries of our faith to him, especially if he is dying, because this would disturb his mind. Is it not sufficient if, being dying, he promises that, when he recovers from his illness, he will take care to be instructed, so that he may put into practice what has been prescribed to him? R. It is not sufficient to make a promise, but the missionary is obliged to explain to the adult, even if he is dying, who is not entirely incapable, the mysteries of the faith that are necessary in a general way, such as are especially the mysteries of the Trinity and the Incarnation. May 10th, 1703. — I. It is asked whether a missionary can administer baptism and other sacraments to a sick barbarian, to whom the mysteries of the religion have been explained, and who has promised to observe the commandments; but the missionary is certain that he will not keep them, except for this one reason, namely, that he does not want to contradict him. There are many reasons to doubt whether the barbarian is truly instructed, because the missionary, being almost ignorant and unskilled in the barbarian language, could only briefly explain sublime mysteries, exceeding the understanding of barbarians, and although the dying man affirms that he understands everything, his outward appearance and lack of devotion suggest that he is saying this to please, so that if someone were to approach him and say that everything that has been said to him is nothing but mere fables, he would reply, to please the barbarians, that it is all true. This can arise from two principles: First, because he does not understand what is being said to him; for example, due to a light mind, so that at the very moment he says, "I believe and I will do," he truly believes and wants to carry it out, but with the slightest contrary reason, he will change his mind: which, however, is certain, is that he does not want to be burned in hell, and so his affirmation may be truly from the depths of his heart; the difficulty is, whether he believes in hell, or whether he hears what is said to him as a story being told to him, which may be true or false. 2. Can an adult, who is uneducated and stupid, as happened with a barbarian, be baptized?

[*Latin ed. p. 701*]

From the Sacred Congregation, 701, Regarding the Third Point: Concerning the dying and those deprived of reason among the Mahometans, it is to be answered as in the decree of the Holy Office of September 18, 1800, addressed to the Bishop of Perth, that is: "If they have previously

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given signs of wanting to be baptized, or if, in their present state, they express or demonstrate in any other way the same disposition, they can be baptized under the condition that the missionary, having considered all the circumstances, judges prudently." On Thursday, the 1st of April of the same year, during the usual audience, the Reverend Father 1). Assessor of the Holy Office, having reported all of these matters to the Most Holy Lord Pope Leo XIII, the Most Holy Father approved the resolution of the Fathers. I, Canon Mancini, Sacred Roman and Royal Notary.

Concerning the use of spiritualism. Most Blessed Father, Tizio, having made no agreement with the evil spirit, attempts to evoke the souls of the deceased. He operates in this way: alone, without any other knowledge being given except that of God, and of some of His attributes, especially of His remunerative and vindictive justice, according to this passage of the Apostle, it is necessary to believe that He is both the rewarder and the avenger, from which it follows that a barbarian adult, in a certain case of urgent necessity, can be baptized, even if he does not explicitly believe in Jesus Christ.

5. Whether the missionary is obliged to explain all the precepts of the divine positive law to baptized or to be baptized adult barbarians, especially those to which they would have difficulty submitting, so that such barbarians may enjoy the security of conscience, even if they do not observe those precepts which they are ignorant of, striving for the axiom of law: "Lex non obligat nisi fuerit promulgata" (The law does not obligate unless it has been promulgated).

R. To the first question: It is not permissible, if the missionary is morally certain, as is asserted in the doubt, that the sick barbarian has not sufficiently, according to his own understanding, understood the mysteries of the Christian religion explained to him, or that he does not sufficiently believe in them, and that, for the sole reason of not contradicting, he promises to observe the commandments of that same religion. But if the missionary prudently believes that the sick barbarian, when he says: "I believe and I will do," truly believes sufficiently and seriously promises to observe, as above, he must be baptized. If, however, the missionary doubts these things, and time does not allow him to better instruct him, and the danger of death looms, he must also be baptized under the condition.

To the second question: The missionary cannot baptize one who does not explicitly believe in the Lord Jesus Christ, but he is obliged to instruct him in all those things which are necessary by the very nature of baptism.

To the fifth question: He is obliged to explain all the precepts of the divine positive law.

[*Latin ed. p. 702*]

702 From the Sacred Congregation of the Inquisition: A certain individ-

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ual directs a prayer to the Head of the heavenly militia, that He might grant him the ability to speak with the spirit of a particular person. Moments pass; and he, having prepared his hand to write, feels the same hand move, warning him of the presence of the spirit. He sets forth what he desires to know, and the hand writes in response to his inquiries. The answers are all in conformity with the faith and the teaching of the Church concerning the life to come. They pertain mostly to the state in which the soul of a deceased person finds itself, the need that it might have for suffrages, its complaints regarding the ingratitude of relatives, etc. Having stated this, is the action of Titius permissible? Thursday, March 30, 1898. In the General Congregation of the Most Holy and Universal Inquisition, held by the Most Eminent and Reverend Cardinals, General Inquisitors in matters of faith and morals, concerning the aforementioned doubt, and after the vote of the Reverend Consultors, the same Most Eminent and Reverend Fathers decreed that the following should be answered: As has been explained, it is not permissible. However, on Friday, April 1st of the same year, during the customary audience granted by the Reverend Father Assessor S. O., after all of this had been reported to the Most Holy Lord Pope Leo, of Divine Providence, XIII, the Most Holy resolution of the Fathers was approved. I. Can. Mancini, Notary of the Most Holy and Universal Inquisition. FACULTIES: Any and all faculties are granted only to the Ordinaries of the places. Thursday, April 20, 1898. After, by Decree of this Most Holy Sacred Congregation, on Thursday, November 24, 1897 (1), it was declared that all special faculties habitually granted by the Holy See to Bishops and other Ordinaries of the places are not suspended by their death or cessation from office, but are extended to their successors, according to the form of the Decree of the Sacred Office of Thursday, February 20, 1888, concerning matrimonial dispensations; the aforementioned (1) Decree is present in this volume on page 627.

[*Latin ed. p. 703*]

From the Sacred Congregation for the Inquisition, 705. To the Sacred Congregation, the following question was posed: Whether it would be advisable in the future to eliminate the privileges granted during their office, which are most often granted to Vicars Capitular. Furthermore, in the General Congregation of the Sacred Roman and Universal Inquisition, held by the Most Eminent and Reverend Lords, Cardinals, Inquisitors General in matters of faith and morals, after careful consideration of the aforementioned question, and with the vote of the Most Reverend Consultors having been heard, the same Most Eminent and Reverend Fathers decreed that: The clause pertaining to privileges during office should be suppressed, and in all other respects, the form of the Decree already issued on February 20, 1888, numbers 1 and 2, should be followed, namely: "1. All habitual privileges are henceforth to be granted to the Ordinaries of the places. "2.

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Appeals from the Ordinaries shall be made to the Bishops, Administrators, or Apostolic Vicars, Prelates or Prefects having jurisdiction with a separate territory, and their officials or vicars in spiritual matters, and in the case of a vacant see, to the Vicariate Capitular or the legitimate Administrator." On the following Saturday, April 22 of the same year, 1898, during the customary audience granted to the Reverend Father Doctor Assessor, the aforementioned matters were reported to His Holiness, Pope Leo XIII, of blessed memory, and His Holiness approved the resolution of the Most Eminent Fathers, notwithstanding any objections. I, Canon Mancinelli, Notary of the Sacred Roman and Universal Inquisition. QUESTIONS regarding the acceleration of childbirth. Most Blessed Father, the Bishop of Sinaloen, prostrate at Your feet, humbly requests a resolution on the following questions: I. Will it be permissible to accelerate childbirth whenever the natural expulsion of the fetus at its proper time is impossible due to the condition of the woman? II. And if the condition of the woman is such that neither a natural birth nor a premature birth is deemed possible, will it be permissible to induce an abortion or to perform a Cesarean section at the appropriate time? III. Is laparotomy permissible when dealing with an ectopic pregnancy, or with ectopic conceptions?

[*Latin ed. p. 704*]

704 FROM THE HOLY INQUISITION, Thursday, May 4, 1898. In a General Congregation held by the Most Eminent and Reverend Lords Cardinals, General Inquisitors against heretical perversity, concerning the aforementioned doubts, and after the vote of the Reverend Lords Consultors, the same Most Eminent and Reverend Fathers judged it necessary to write: "Regarding I. The acceleration of childbirth is not, in itself, illicit, provided it is performed for just reasons and at a time and in a manner that considers the life of the mother and the fetus, given the ordinary circumstances." "Regarding II. As for the first part, negatively, according to the decree of Thursday, July 24, 1895, concerning the illicit nature of abortion (1).—As for the second part, it does not impede the woman in question from undergoing a Caesarean operation in due time." "Regarding III. In cases of necessity, a laparotomy is permissible to remove ectopic pregnancies from the womb of the mother, provided that due and opportune provision is made for the life of both the fetus and the mother, as far as possible." On the following Saturday, May 6 of the same month and year, during the usual audience granted to the Reverend Father Assessor S. O., after a report was made to His Holiness, Pope Leo XIII, of Divine Providence, the Most Holy Father approved the responses of the Most Eminent and Reverend Fathers. I. CAN. MANCINI, S. R. et U. I. Not. (1) This decree was reported in Vol. XXVIII, 383. Also see in the same subject matter Vol. XXII, 748, Vol. XXVI,

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[*Latin ed. p. 705*]

705 LETTER FROM HIS HOLINESS, POPE LEO XIII, TO THE ARCHBISHOP OF MILAN. TO ANDREA FERRARI, CARDINAL, SECRETARY OF STATE, ON THE OCCASION WHEN THE CITY OF MILAN AND OTHER PARTS OF ITALY WERE DISTURBED BY REBELLIOUS PEOPLE.

Most Eminent Cardinal, Our heart could not but be deeply moved upon learning of the grave disturbances that have occurred in various regions of Italy, and the most grievous of these, which afflicted Milan in recent days. A most mournful spectacle presented itself to Our mind: the audacious acts of subversives, and the shedding of the blood of citizens, filled Us with dread, not only for the evils they brought, but also for the greater evils they threatened. Indeed, it could not be that the bitter seed, sown for so long in the peninsula with such perversion of ideas, such corruption of morals, and such damage to religion, would not bear bitter fruit. Therefore, it was to be expected that the eloquence of events would bring to reason those who, after opposing the salutary efficacy of the Church and banishing God from society, now with their own eyes see the ruin of the destructive work they have pursued with such diligence. Instead, We observe, not without sorrow, that these very ones, seizing the present opportunity, are attacking the most honorable citizens with the most malicious accusations, accusing them as the authors of these disturbances.

[*Latin ed. p. 706*]

LETTER 706. Illustrious and honorable sirs, for a single reason, because they have seen us devoted to the Church and the Apostolic See: as if they did not know, or perhaps feign ignorance, that popular movements are neither taught by the Church, nor instigated by Catholics, but that their authors and instigators must be sought elsewhere.

In these, indeed, very difficult public circumstances, We, and You, Most Eminent Cardinal, present in Milan, would have wished that you could be found there (and would that you could!), so that, as a conciliator of peace and a bringer of comfort, you might remove the cause of this, which, had it not been for prejudice, would perhaps have been less noticed, for the sake of pouring forth a torrent of insults upon the head of Our Lord, dragging between a thousand reproaches a member of the Holy College, which, with particular bond joined to Us and the Apostolic See, has been, for these past days, with manifest sectarian conspiracy, subjected to such dishonor and outrage that it cannot but arouse the deepest indignation in every Christian and civil heart. We are persuaded that it is not so much the person of Your Eminence, who has given, in every noble opportunity, a shining example of pastoral charity, to which they are addressed; but rather the principle represented by you, that is, to follow in the footsteps of the

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Most Holy Ambrose and Charles, closely united to that flock entrusted to you.

[*Latin ed. p. 707*]

707. The Apostolic See entrusts to this [Bishop] what has been perpetually entrusted to the Apostolic See. However, it is necessary to maintain a distinction. Nevertheless, we do not know to what good purpose it may conduce that so much harm is caused by the authority of a bishop, when, feeling the Republic shaken by violent upheavals, the very social authority itself is undermined. — If this unrestrained license (a fruit, indeed, of the dominant Masonic sect) causes us such pain, and we have been greatly saddened, it has been a comfort to us to learn of the testimonies of devotion and esteem spontaneously offered to you by this Metropolitan Chapter and Clergy devoted to the care of souls in the city and in the surrounding areas, which have been brought to our attention. We desire, moreover, that the Catholic laity of Milan, whose energy and constancy of purpose we have so often praised, may not be dismayed by these events; rather, may they be more closely united in obedience and affection to their pastor, and may they be steadfast and firm in the religious dogmas in which the very salvation of the nation is primarily placed.

Not long ago, we were gratified to learn of the splendid demonstrations of faith and piety given by the citizens of Milan, on the occasion of the fifteenth centenary of the death of their most holy Patron. And now, we are pleased to renew to them and to their pastor our special sentiments of benevolence.

[*Latin ed. p. 708*]

708 LETTER: For this purpose, we impart to you, Signor Cardinale, our paternal affection, and, with the grace of this matter, we bestow the Apostolic Blessing upon you, and upon your clergy and people, to whom you are entrusted with pastoral care.

From the Vatican, 22nd of May, in the year 1898.

LEO XIII, POPE.

FROM THE HOLY CONGREGATION CONCERNING DISPENSATIONS FOR MARRIAGE.

June 31, 1897. Session 24, chapter 5, concerning dispensations.

SUMMARY OF THE CASE.

Lawrence, on April 17th of the year 1888, entered into marriage before a non-Catholic minister with Ida, who was approximately 33 years old at

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the time, and who adhered to the Calvinist sect. This marriage, of mixed religion, was celebrated without an Apostolic dispensation and before a Calvinist minister, disregarding the form of the Council of Trent. Although illicitly contracted, it is to be considered valid in those regions. However, such an illicit marriage rarely has a happy outcome. Indeed, the woman, although repeatedly accepted by her husband for the fulfillment of conjugal duties, always seems to resist. The reason why the woman persistently refused to fulfill her conjugal duty, besides alienation from her husband, appears to have been because she learned of a woman who had died after a surgical operation. Meanwhile, after two or three weeks, the woman was partly residing at the place of her husband's habitation, and partly with her mother in...

[*Latin ed. p. 709*]

STRIGONIUM. A woman, living in a village nearby, abandoned her husband, intending never to return. In this unhappy situation, the husband, after obtaining a decree of personal separation from a Calvinist minister, appealed to the royal court of Pressburg, which was the proper forum for cases involving a non-Catholic woman, requesting a declaration of nullity of the marriage based on the wife's alleged impotence. Adhering to this petition, three civil judges appointed experts to examine the woman's body. After the examination, these experts testified to the woman's complete potency and her virginity. Therefore, they did not hesitate to declare the marriage null and void. After this process, Lawrence appealed to the Ordinary of Tirnava, who, after hearing the husband and other witnesses, and despite the woman's obstinacy, issued a decree of separation from the marriage bed and cohabitation in favor of the husband. Now, the husband, wishing to enter into a new marriage, sent a petition to the Holy See, earnestly imploring that his marriage be declared null, as it was unconsummated. The Sacred Congregation of the Holy Office ordered the Archbishop of Strigonium to conduct a process, both regarding the alleged lack of consummation and concerning the grounds for a dispensation, observing the prescribed form of the Constitution of Benedict XIV, "Dei Miseratione," and the Instructions of the Sacred Congregation, dated 1840, with the faculty of delegating the task. Furthermore, the same Sacred Congregation decreed that, if the woman persisted in her obstinacy, the testimonies of experts given in the civil court should be used in the same process, provided that, as far as possible, these witnesses confirm their testimonies before the ecclesiastical tribunal under oath. After the tribunal was constituted, the plaintiff was heard, and witnesses of good reputation were examined, all of whom testified to the plaintiff's honesty and truthfulness. The doctors who, at the mandate of the civil court, had examined the woman were also heard, and they affirmed her integrity under oath. The woman, although summoned according to the law, remained obstinate in

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her defiance.

[*Latin ed. p. 710*]

710 GRAN. A SYNOPTIC ACCOUNT OF THE DISPUTE. From the entire course of events, it appears to me that: 1° It is probable that the marriage contracted between Lawrence and Ida was never consummated. 2° That there exist grave and urgent reasons by which this marriage, although validly contracted, may be lawfully dissolved by Apostolic authority. In the first place, it should be noted that the marriage, of which we are speaking, was, although illicitly, validly contracted; since the decrees of Trent are not publicly binding in the Hungarian regions. Furthermore, I maintain that the Gran ecclesiastical court has sufficiently conducted the proceedings for the issuance of the Bull of Benedict XIV, by the grace of God, and according to the instructions of the Sacred Congregation of the Council. I say "sufficiently" because, indeed, the sworn deposition of the wife was lacking before the ecclesiastical judge, as was also the deposition of a seventh witness from the wife's side. These defects, it is true, arose from the fact that the woman obstinately refused to designate these witnesses, and although she was legally summoned three times, she could not, in any way, be brought to appear before the ecclesiastical judge, so that she might give testimony according to custom. Although this defect, which everyone considers to be of the gravest importance, does not invalidate the proceedings; since the Sacred Congregation of the Council, having been informed of this woman's obstinacy, kindly approved that this defect be remedied by a report from physicians before the ecclesiastical judge, to be again confirmed by oath from the aforementioned parties (as was indeed done); nevertheless, the judge of the Gran court would have acted more prudently if, ex officio, he had summoned those who were related or connected to Ida by bonds of friendship, to examine the truth in the trial. Ida's mother was present, her brother was present, and it is not unreasonable to believe that others were also present, who, if summoned to the trial, would not have stubbornly refused to appear. This conjecture is strongly confirmed, because the brother of Ida...

[*Latin ed. p. 711*]

STRIGONIEN. 711. The aforementioned citation was issued against Ida, but this woman, like a runaway slave, refused to appear, keeping herself shut away. Another fault, if I may so speak, seems to me to have occurred in the proceedings. For, as will be explained below, the Expert Physicians who testified to the integrity of her sex, under oath, declared that Ida's vagina could be penetrated by a member, without the hymen being broken, by a digit of the index finger, not exceeding a certain thickness. It remained, therefore, for the Ecclesiastical Judge to order a physical examination of Ida by her husband, in order to ascertain whether the husband of Ida possessed

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such a thickness in his sexual parts. For everyone will readily concede that if this legal testimony were presented in the present case, it would shed great light on the controversy regarding the lack of consummation of the marriage between Ida and Lawrence. However, nothing of this kind was done by the Judge. Indeed, it seems that he disregarded this matter, perhaps because Lawrence is a robust man of considerable stature. But what of that? Can not atrophy of parts occur even in a giant? These scruples prevent my mind from being led to declare the proceedings completely sound in every respect. However, I maintain that, with respect to the rest, they seem to have been well conducted. With these observations made, he proceeded to demonstrate the first part of the proposition, namely: that the marriage between Ida and Lawrence was not consummated. And this is first proven by the sworn affirmations of the Plaintiff, who concluded his testimony in this way: "Because of the violent resistance of my wife, I was unable to begin any carnal intercourse, therefore, we did not have any intercourse, neither imperfect nor complete, and nothing happened between us." From all of the Plaintiff's responses, it is gathered that Ida, either at the time of the marriage, or subsequently, showed a complete alienation of mind from her husband, and that she only reluctantly entered the house of her husband, often leaving him for frivolous reasons; and although the husband attempted to lie with her ten times, he was never able to touch her, even slightly, because Ida constantly repelled him with fear of childbirth.

[*Latin ed. p. 712*]

712 STRIGONIEN. Lawrence indeed attempted to persuade his wife to more reasonable courses of action through reproaches, but in vain; furthermore, in order to subdue her mind and, at least in the future, to bring her to agreement, he persuaded her to purchase a property in his own homeland (the husband's homeland), but entirely in vain; for not only did she obstinately refuse the marriage, which she had previously promised, but after a few days, she finally left him. Given this constant and persistent obstinacy on the part of the wife in refusing the marital debt, I do not clearly see how Lawrence could have consummated the marriage within those three weeks, during which time the wife only spent a very small portion in the husband's house, and which, moreover, made intercourse even more impossible, since she did not even undress at night. It is all the more impossible to have achieved this after the wife's departure, because these spouses only met on the occasion of attempts at reconciliation, in which circumstances they lacked even the slightest opportunity to be together. Finally, the non-consummation of this marriage is clearly demonstrated by the recognized virginity of the wife, whose bodily examination the Plaintiff himself provoked from the Doctors. For, everyone sees, if the wife had been known, he would never have dared to urge this examination, since

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he would thus have exposed himself to the most certain refutation. All of these things are fully confirmed by the testimony given by the Plaintiff after the aforementioned examination under oath. But the following question rightly arises: can we, with a safe conscience, give credence to these affirmations of the Plaintiff, confirmed under the sanctity of an oath? I believe that we can. For all the witnesses who knew him intimately unanimously declare, under oath, that Lawrence is an honest man, religious, endowed with a steadfast character and a serious mind, and therefore, when he testified under oath, he did not perjure himself, but spoke the pure truth. However, some witnesses admit that they do not have certain knowledge of the number of days and nights during which these spouses lived together and slept together, nor of the number of days of the...

[*Latin ed. p. 713*]

STRIGONIEN. 715, concerning both the wife's lack of affection and, finally, the time of her definitive abandonment. However, after hearing three witnesses, all the others, especially those who were familiar with the spouses, stated unanimously: 1. That the wife did not show affection to her husband on the very day of their marriage; 2. That she did not fulfill her conjugal duties; 3. That after the wife's definitive departure, the spouses only met, and in order to attempt reconciliation, they consulted with Minister Galvinianus and the civil tribunal. From all the testimonies of the witnesses, it is gathered: 1. That these affirmations perfectly agree with the depositions of the plaintiff, especially concerning the lack of consummation of the marriage; 2. That, considering the wife's aversion (not to mention hatred) towards her husband, her stubborn and violent resistance in fulfilling her conjugal duty, and the complete absence of any relationship after the wife's definitive departure and examination of her person, we can justly conclude that "this marriage was not consummated, and it is highly probable." Since neither witnesses from the wife's side appeared, nor did she herself appear personally before the ecclesiastical tribunal, the documents obtained from the civil proceedings must be examined. Two questions were proposed to be resolved by three experts by the Civil Tribunal. The first: whether the woman is fit for sexual intercourse (carnal copulation), or not. To this question, after a careful and conscientious examination of the woman's body, they unanimously answered: "The woman's sexual organs, both internally and externally, are completely intact and healthy, and therefore this woman is completely fit and perfectly capable of sexual intercourse (carnal copulation)." The second question, posed by the plaintiff's lawyer, was directed to the medical experts, namely: could it be determined, based on the results of the examination, whether the woman had engaged in carnal copulation (sexual intercourse)? To this question, the same experts replied unanimously: "The woman's sexual organs examined

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were anatomically intact, especially the hymen..."

[*Latin ed. p. 714*]

714 STRIGONIEN. The hymen appears to be intact, but it is possible that some male member could have penetrated the vagina, perhaps by means of a finger, which could conveniently grasp the hymen. Therefore, from the testimony of the experts, it is abundantly clear: the genitals of Ida exhibit signs of perfect virginal integrity; which, speaking generally, is a not insignificant argument in favor of the non-consummation of marriage, as attested by theologians and jurists. In our case, especially considering all the circumstances mentioned above and those to be noted below, it seems to me to provide a strong argument for the non-consummation of this marriage. The final argument for the non-consummation of this marriage can be derived from the confessions of the wife herself, Ida, which she gave in a civil proceeding. For from these, there appears to be complete agreement between the statements of Ida from the civil proceeding, and the sworn depositions of the plaintiff and the seven witnesses designated by him. All, without collusion, confess with one voice that after the marriage between Lawrence and Ida, there was constant and perpetual hatred between the spouses, and that their cohabitation was very brief, due to the wife's obstinate persistence in refusing the marital debt, and that after the experts attested to the woman's virginal integrity, the husband never approached her, and therefore, no union ever followed. All of these things, having now been carefully proven, would certainly entitle me to conclude, and to maintain with a clear and safe conscience, that the marriage entered into between Lawrence and Ida was never consummated. However, until that shadow of doubt is removed from my mind, I do not dare to call the fact of the non-consummation of this marriage certain, but only highly probable. The reasons for seeking a dispensation from a valid marriage are multiple: the first is the hatred of the spouses towards each other, and their constant and perfect animosity.

[*Latin ed. p. 715*]

STRIGONIEN. 71 5. Aversion. 2. The opinion of the civil court, which declared the Ream-Conventa to be *acatholica*, although invalidly, but nevertheless, before the world, released from the matrimonial bond. 3. The danger of incontinence in which the actor finds himself, who declared that he wished to found a family, and that he felt compelled to live a matrimonial life, and to live in accordance with Christian morals. 4. The most present danger of apostasy from the Catholic faith. OPINION OF A CANONIST. To add to the merit of the case, the consultant stated: "There are two questions to be resolved. The first is whether it can be established with certain and undeniable arguments that this marriage was not consummated; the second is whether there are sufficient reasons that can justly move the Most Holy

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Lords to grant this dissolution. Regarding the first question, concerning consummation, it seems certain. For consummation can be established a) from the testimony of the spouses, b) from the confirmation of a seventh witness, c) from several indications taken together, which, even if not individually, provide a certain moral certainty about it, and especially d) from the examination of the body. Furthermore: a) The man has testified judicially and under oath that there was no consummation. The woman, although not under oath, asserted the same in the civil court, stating that the marriage had not been consummated, indeed, that she had not even allowed the man to approach her. This confirms the man's confession made in the judicial examination: "I tried to consummate the marriage with her about ten times, but in vain, because the wife kept me away from her." b) The testimony of the seventh witness, as I said, could only be obtained from the actor's side, but it fully confirms the same. c) From these [indications], it seems that a moral certainty about the lack of consummation arises; which is abundantly confirmed by certain other indications that are drawn from the process itself. d) But besides these, the physical examination of the woman seems to provide full moral certainty about the lack of consummation.

[*Latin ed. p. 716*]

716 STRIGONIEN. Regarding the matter. This examination was conducted by three experts at the order of a civil judge. These experts reported that the female sexual organs were anatomically intact, particularly the virginal membrane (hymen), which they found to be whole. However, they added that the vagina, which could comfortably accommodate the index finger, might have allowed a weaker male member to enter. The plaintiff, however, is said in the records to be a man, neither short in stature nor otherwise weak, but physically developed and robust; therefore, it would be imprudent to even suspect that he could have had intercourse with Ida without at least somewhat tearing her hymen. If this appears to indicate a lack of consummation of the marriage, then another requirement, or just cause for granting a dispensation, is clearly present in this case. There is absolutely no hope of reconciliation between these spouses; this is evident both from the civil proceedings in which this marriage was declared dissolved due to an invincible alienation of the spouses from each other, and from the testimony of the spouses themselves, who, before a heretical minister, declared that they had conceived an implacable hatred for each other. Furthermore, there is another very serious reason. The man is in grave danger to his soul. Desiring marriage above all else, which he could easily enter if he were to apostatize from the faith or were to merely civilly marry another, he is in grave danger of either shamefully apostatizing from the faith or of living a life in an unjust concubinage.

OBSERVATIONS OF THE DEFENDER OF THE MARRIAGE OFFICE.

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First of all, he states that the three doctors who examined Ida's body at the order of the civil judges would not dare to place the lack of consummation of the marriage beyond all doubt; they add: "A weaker male member might have been able to penetrate the vagina, which comfortably accommodates the index finger." And when the marriage tutor asked one of the aforementioned doctors to "explain more closely the meaning of the last part of his opinion: ... but yet a weaker male member might have been able to penetrate the vagina, which comfortably accommodates the index finger; - is such a penetration of the vagina possible, notwithstanding the anatomical..."

[*Latin ed. p. 717*]

STRIGONIEN. In the year 717, an examination of the integrity of a woman's sexual parts was conducted here, and the question was posed: "Is this a perfect union?" The physician responded clearly: "If we allow for the possibility of penetration by a weaker member of a man, then we can say that a perfect union has taken place." Furthermore, it is added that this examination of the woman's body, when requested by judges, does not constitute a marriage that is worthy of the reverence due to those who are subject to Calvinist laws, because, as is easily understood, it was not performed after a preliminary bath, nor with the necessary precautions to avoid fraud and deception. Finally, the testimony of the spouses is usually considered valuable, corroborated by the testimony of seven witnesses. However, in the present case, not only is the wife's confession and witnesses from her side lacking, but furthermore, even though witnesses brought forth by Laurentius themselves proclaim him to be worthy of belief, yet from the testimony of Sidonia, who is related to Laurentius, it is clear that Laurentius has recounted to relatives, affines, and neighbors, not the events as they *gesta* were, but as they suited him. In the confessions, it is stated that Laurentius returned to the *oppidum* "Fallas" on the day after his marriage, accompanied by his wife; and that the wife separated from her husband three weeks after the wedding. With these things noted, the purpose was to resolve the doubt as to whether consultation should be sought regarding a dispensation from a valid but unconsummated marriage in this case. RESOLUTION. The Sacred Congregation, after deliberation on July 31, 1897, decided to respond: "Affirmatively."

[*Latin ed. p. 718*]

718 BAYONNE. MATTER OF MARRIAGE DISPENSATION. September 11, 1897. Session 24, Chapter 5. Concerning impediments to marriage. SUMMARY OF THE CASE. In the native town of Saint-Palais, in the diocese of Bayonne, Mary, being twenty years of age, entered into marriage on August 8, 1891, in the manner prescribed by the Council of Trent, with Albert, who

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was thirty-one years old. These nuptials, it is said, were contracted solely at the desire of Mary's parents, although she already desired another young man; and they proved to be most unhappy. The spouses, who from the first night of their marriage used the same bed, have repeatedly attempted to consummate the marriage, but, it seems, always without success; indeed, the woman declares that the man, suffering from a disease, is entirely unfit to perform the duties of marriage. Meanwhile, for two years, the spouses lived together in peace; for the woman, as she herself states, was ignorant of marital matters, and was deceived by her husband, who affirmed that everything was entirely according to nature. But later, after being instructed about marital duties, she was greatly distressed with her husband, who from that time abstained from any further attempts. Nevertheless, the spouses lived together until the year 1896, when conjugal life became entirely impossible. For, as she confesses, Albert, hoping to reconcile with his wife, who greatly desired to have children, offered her this shameful proposition: that she should go to Nice and there obtain the solace of motherhood from another concubine. After this, Mary, returning to her parents' home, bade farewell to her husband, never intending to return to him. After the departure of his wife, the man went to the civil court, from which he easily obtained a favorable judgment of divorce. Meanwhile, the woman offered humble prayers to the Supreme Pontiff, imploring that her marriage be dissolved, since it was unconsummated due to the impotence of her husband.

[*Latin ed. p. 719*]

BAYONNE. 719 Ordinarius Bayonensis, cui preces de more ab Sacra Congregatio Consistorii remissae fuerunt, super asserta inconsummatione processum instruxit. Actrix et septima manus eius interrogatae sunt, et deinde mulier subjacuit inspectioni medica, servatis in omnibus praeceptis Sacrae Congregationis. Vir quoque ad normam legis citatus est, tamen contumax fuit.

DISPUTATIO SYNOPTICA: DEFENS IO MULIERIS.

Suam orationem, defensor aggrediens, ait: inconsummationem matrimonii luculenter probari ex iurata depositione unius coniugis et confessione alterius coniugis; ex depositionibus testium, etiam septimae manus; tandem ex inspectione corporis mulieris.

Verum est quod mulier, in sua instantia ad Pontificem, affirmat: "Mon mari est absolument incapable de remplir le devoir conjugal et de fait il ne l'a jamais rempli avec moi." Et a iudice percontata: "Est-il vrai comme vous l'affirmez dans votre requête, que le mariage n'a pas été consommé et pourquoi ne l'a-t-il pas été?" Sub iuramenti fide respondit: "C'est vrai parceque il est impuissant... J'en parlai à lui, qui m'avoua qu'il avait une

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infirmité et qu'il était ainsi de la naissance, et que cela tenait à la paralysie du bras droit. En effet il a le bras droit paralysé, et il n'écrit de la main gauche qu'en tremblant."

Ex hoc, orator deducit, hanc iuratam Mariae depositionem, uti infra videbitur, a septimae manus iurato testimonio suffultam, sufficere ad probationem inconsummationis. Unde, secundum ipsum, nihil facere posset contumacia viri; cum ex capite de probationibus eruatur, iuratam unius coniugis confessionem, coniunctam cum propinquorum vel viciniorum bonae famae depositione sufficere ad probationem inconsummationis, quando altera pars est contumax aut negans est.

Quam doctrinam tenuit semper Sacra Congregatio, et nuperrime in Sacro Iacobi de Chile, disp. matr. 12 Maii 1894 (1).

(1) Recole Vol. XXVII, 95.

[*Latin ed. p. 720*]

720 BAYONNE. But the advocate argues, and even if the man is obstinate, he has, by his obstinacy, implicitly confirmed his impotence, because he feared to reveal his infirmity before the Tribunal; for if he had been potent, when he rejects the separation, he would have tried with all his might to prove his potency; but he explicitly confessed it in a letter written to his father-in-law. "You will find, says the man, in the enclosed envelope, the consultation of Mr. the doctor de Sentex, which I saw yesterday evening. You will see there that, without being as affirmative as Mr. Doctor Petre, it is possible, indeed very probable, that through a determined treatment, one can overcome my illness." These words are confirmed by the very conduct of the aforementioned doctor Sentex, who, when questioned in the process, refused to answer the questions, saying: "The refusal to answer the questions above stems from an absolute obligation for the doctor to maintain professional secrecy." Which, the advocate observes, Doctor Sentex certainly would not have hesitated to do, if he could have revealed anything favorable to his client. But further, the advocate does not lack other very serious arguments to prove the man's impotence. For, he says, if he himself had been potent in the marital act, certainly he would not have proposed to his wife that she go to Nice to obtain offspring through another union. Furthermore, the defender argues, the very Albert himself, at a time not under suspicion, confessed his impotence to consummate the marriage. Indeed, John Millebiau, a friend from childhood and schoolmate, testifies: "In the month of June 1896, I went to St. Sever at the invitation of Mr. Albert. In our conversation, I asked him about the reasons for his wife's departure. He told me that the marriage had not been consummated, and he confessed his impotence, which he attributed to a nervous weakness that had existed for a few years before the marriage." And I. B. Hirigoyen agrees: "Mr. Albert himself, long before the separation, confessed to me that he had consulted Doctor Petre in Bordeaux, supposedly to treat a nervous ailment."

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All these things, the advocate continues, are confirmed by the testi-

[*Latin ed. p. 721*]

7 2 1 BAYONNE. Witnesses of the seventh session, who not only completely confirm Albert's impotence, but also testify with unambiguous words concerning Mary's honesty and veracity. Among others, the testimony of Father Regis, from the Definitor and Rector of the Order of St. Francis, stands out. After having declared his conviction regarding the lack of consummation of the marriage, he testifies as follows concerning the actress's veracity and piety: "I believe her to be of good religious sentiments, and of sincerity, and even of frankness." And the actress's brother testified: "The last time that Mr. Albert came to St. Palais, I accompanied him to the station at his departure, and I said to him: 'You have been very unfortunate to have taken my sister, given this infirmity.' He replied: 'It was necessary for me to take one! It is unfortunate that I have fallen upon your sister.' My conviction is that the marriage has not been consummated." This is corroborated by Justin Berrogain, who testifies: "I have a good opinion regarding these two points (Mary's religion and sincerity). I believe that Mary has told the truth, and that in reality, the marriage has not been consummated." And John Peter Mercatbide states: "It is my persuasion that she has told the truth, for one does not invent such things; and in my opinion, the marriage has not been consummated." Furthermore, Augustine Poutchon testified: "I believe that she is telling the truth. Moreover, all these facts were recounted to me by her herself, about six months ago, in the same details. I do not believe that the marriage has been consummated. In my opinion, this person has been deceived." Furthermore, the advocate proceeds, and to prove the lack of consummation, presents the principal physical argument of virginity, derived from a bodily examination, in which, as the orator notes, all the legal prescriptions were observed to the letter. Indeed, the judge inquired: "Have you observed in Mary the complete integrity of her body? If so, please specify the marks by which you recognized it." Thus, the midwife, Mary, responded: "Yes, I have observed the complete integrity of her body. I observed, by sight and by touch, that the hymen is intact, without any sign of rupture."

[*Latin ed. p. 722*]

722 BAIONEN. "Continuity." The same is stated by Maria Emilia Molard: "Yes, I have observed the perfect integrity of the hymen's membrane upon touch and sight. For me, Mary is a virgin." — Another midwife, Maria Seiglan, although she affirms: "I cannot pronounce a judgment, because at the moment when I made the examination, she showed such sensitivity that I deemed it prudent not to proceed further"; however, the advocate notes that this circumstance of sensitivity certainly indicates virginity, and

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does not argue against it. Furthermore, the advocate insists, this is confirmed by the testimony of the physicians, who, having read the depositions of the midwives, affirm the virginity of the actress. Finally, the advocate, proceeding to the causes for the dispensation, notes that these are clearly evident in the matter. First, there is aversion between the spouses; for Mary was forced to marry Albert against her will, and this estrangement then grew immensely, when the husband, impotent for the consummation of the marriage, proposed to her that she obtain offspring through another concubine. Another cause the advocate finds is the husband's impotence. Therefore, he notes, if the existence of doubt and probable impotence would suffice to obtain a dispensation, what should be said when this impotence is certain and fully proven? To this is added the danger of incontinence, because the woman, being of a flourishing age, desires to enter into new marriages. And finally, according to the defender, there is a lack of consent from both spouses, which is urged by both the woman, who is pressing for a dispensation, and the husband, who has already obtained a divorce decree.

OBSERVATIONS OF THE DEFENDER OF THE SACRED BONDS.

On the contrary, the defender of the sacred bonds, after recounting the facts, first notes that the true cause of this kind of appeal is not the husband's impotence, nor the lack of consummation of the marriage, but rather it is to be found in the actress herself, who is considering entering into new marriages with another young man, whom she knew before she was given to Albert in marriage. Indeed, Mary herself...

[*Latin ed. p. 723*]

BAIONEN. 723, interrogata a iudice: "Quid sunt rationes justificantes separationem?" ingenue respondit: "Motivum particularis determinationis meae est quod desidero me remittere cum iuvene cum quo iam antea desponsata eram." Unde defensor matrimonii valde timet ne Maria recusaret insidias. Etenim Maria Seiglan, una ex tribus quae actricis corpus recognoverunt, ad quaestionem: "An in Maria constataris integritatem corporis?" abscissa respondit: "Non possum me pronunciare, quia, tempore quo inspexim, tanta sensitivitas in ea apparuit ut crevi delicatiorem non progrederi." Et, prosequitur orator, fortasse non est alienum a veritate actrix, quae, cum feliciter sustinuerat experimentum a duabus aliis obstetricis peractum, statim atque percepit se nec artificiis nec aliis praesidiis consequi posse testimonium favorabile ab integerrima Maria Seiglan, constituisse simulare sensitivitatem, et hoc modo explorationem praepedire. Nec, secundum oratorem, satis confidere possumus in testimonio aliarum obstetricorum, quia hoc tantummodo est orale, cum cautum sit ut relatio scriptis primis consignetur. Ulterius, urget defensor Sacramenti, explo-

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ratio ab obstetricibus limitata est ad partes genitales, dum qui de virginitate testimonium ferre debet, reliquum quoque muliebris corporis habitum recognoscere oportet. Unde ad rem citat Zacchiam, lib. 3, tit. 2, q. 7, n. 3 et seqq.: "Quoniam, cum pro veritate medicus interrogatur, ut de integra, seu violata virginitate sententiam ferat, ne ex simulata per haec medicamenta decipiatur in iudicando, paucula haec quae sequuntur animadvertere debet. Et primo debet... non ea solum, quae ex muliebrium vasorum constitutione desumuntur perpendere, sed alia quoque, quae ex mammarum, pectoris, ventris, totiusque denique corporis statu elicere licet... nam et ipsae carnes in corruptis laxiores sunt, in virginibus duriusculae et renitentiores sunt." Quibus animadversis propositum fuit diluendum.

[*Latin ed. p. 724*]

724 BAIONEN. Whether consultation should be sought from the Sacred Congregation regarding a dispensation from a marriage that is valid but not consummated, in a certain case. RESOLUTION. The Sacred Congregation, after deliberation on September 11, 1897, decided to respond: Affirmative.

GALLIPOLI: Regarding the granting of jubilation. On January 29, 1898. Through summary petitions.

SUMMARY OF THE CASE. Aloysius Calori, from the city of Gallipoli, had obtained from the Sacred Congregation permission to be absent from the choir due to poor health, on June 13, 1891, and this was confirmed on September 14, 1893; and finally, since he had been requesting permission for the granting of jubilation since 1891, a decree was issued on August 11, 1894: "For the granting of jubilation, with the usual conditions." The aforementioned, although granted jubilation, continued to sing the conventual Mass with the other canons, in the established weekly order, until 1896, in which year he petitioned the Chapter to be released from this obligation.

However, the Chapter refused this request, asserting that an unforgettable custom prevailed, by which canons or those granted jubilation were obliged to sing the Masses during the week, either personally or through another, if any impediment prevented them.

Therefore, the aforementioned, having received jubilation, appealed to the Sacred Congregation, believing that it was not necessary to comply with such a custom. The Chapter, when questioned about its decision, responded: "In this Church, by custom, jubilation has been granted to those who, after completing forty years of service, requested it from the Sacred Congregation. However, those granted jubilation are, by an unforgettable custom, obliged to sing the conventual Mass during the week, in turn, receiving alms from the Chapter."

[*Latin ed. p. 725*]

GALLIPOLITANA 725. After repeated petitions, the Sacred Congrega-

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tion of Rites granted permission for the singing of hymns; however, the Canon did not cease to sing the Mass. Now, the same Canon requests that this permission be revoked. If this is granted, the conventual Mass would have to be sung by only a few, since the other canons are in the same condition as Canon Calori. This is confirmed by the testimony of the Chapter and the Bishop.

SYNOPTIC DISCUSSION: WHAT SUPPORTS THE CUSTOM. On the matter, since there is no doubt that a custom exists within the Chapter, the question is whether the force of law should be attributed to such a custom. However, no canon prescribes a privilege for singing hymns; on the 24th of September, 1818, in the cause file, it is stated: "The Sacred Congregation of Rites allows..." However, it seems that this custom has been valid by reason of equity, following the example of the priests of the Old Law (Number 8) and of soldiers, who, after having bravely fought for their country, were granted land. But where written law is lacking, custom must be considered, as it is established that custom is held as law in those things which originate from the unwritten, or which are not transmitted in writing; argument 1. 32, ff. De leg. Therefore, if the canons of the Gallipoli Church have not fully availed themselves of the privilege of singing hymns because of a custom that is considered to be of ancient standing, the common law, which commands the celebration of conventual Masses by the canons, remains firm. However, since Colleges undoubtedly have the power to establish rules and norms to which they must adhere, they can also, by tacit consent and long usage, introduce laws to which they are legitimately bound: Reiffenst. De consuet. n. III sq.; and in the law De quibus - ff. De leg. it is stated: "It makes no difference whether the people declare their will by a vote, or whether it is by the things themselves." This custom, which has been practiced frequently, uniformly, and with the approval of the entire College over a long and prolonged period of time, is also clearly intended to be binding. It is well known that a custom which is of a serious and difficult matter, or which confers a great benefit, is...

[*Latin ed. p. 726*]

726 In Gallipoli, quicquid ad res sacras vel publicas pertinet, et quod a viris pietate et prudentia observatur, consideretur obligatorium. - Smalzgrueber, *De consuetudinibus*, n. 16. QUAE CONSUETUDINI OPPONUNTUR. Sed, e contra, hoc non potest esse consideratum ut animum habeat ad obligandum, quia, cum de voluntate illorum quaeritur qui officia divina suscipiunt, licet ad id nulla lege obstringantur, si de tali actione consuetudo invenitur, "praesumendum est, consuetudinem illam esse ex devotione potius et ex arbitrio quam ex vera obligatione, sicque continere actus mere facultatis," docet ReifTenst., *De consuetudinibus*, n. 130. - Verum est, semel et a Sacra Congregatione legitima indulgentia iubilationis concessa, iubilato comparatur ius singulare seu privilegium:

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iste vero potest favori ac privilegio cedere, cum quisque, ex regulis iuris, potest renunciare iuri in sui favorem introducto. Sed abdicatio isthaec legitimi iuris personam abdicantis non praetergreditur, quia - alteri per alterum iniqua conditio inferri non potest; arg. I. 74, ff. *De regulis iuris*; nec quod alterius est, ei est sine facto suo auferendum; ex leg. 11, ff. - *De regulis iuris*. - Ceterum consuetudo, legem coarctans, est stricte interpretanda, nec extendi debet de casu ad casum, vel de persona ad personam; ita Rota decis. 97, n. 4, 5, part. 4, tom. 2, *Recentior*. - In una Signina-Missae conventualis, haec eadem quaestio de qua modo res sit agebatur. Episcopus enim referbat, ex libris Capituli, huiusmodi consuetudinem ab omni antiquitate invaluisse, qua Canonici iubilati Missas conventuales per turnum, sicut ceteri Canonici, sive per se, sive per alios, canant. - Capitulum vero ipseque Episcopus postulabant ut consuetudo id genus, maxime commendanda, luculentissime Apostolicae Sedis iudicio rata firmaque haberetur. - In folio causae potissimum a S. C. C. consideratum est ut indultum iubilationis usque ea lege concessum fuisse, ne quid inde choralium officiorum cultus detrimentum capiat; quo fit ut Episcopus qui ex iubilati absentia conspiciat, sacrorum procurationem intercipi ac ia-

[*Latin ed. p. 727*]

GALLIPOLI: Regarding the matter of granting indulgences, the canonical regulations concerning the choral office were reviewed; thus, the Sacred Office [Sacra Congregatio] on December 17, 1718, and again in Civitas Castellanae on July 1, 1820, issued the response: "For the granting of indulgences, with the usual conditions." In Signina on May 25, 1833, concerning the question "Whether and how the custom of the Chapter of Signina should be confirmed, so that it becomes obligatory for indulgences," the response was: "Negatively, and the Bishop, in cases of necessity, should use the remedies granted to him by law, so that no detriment to the divine service may occur." Considering these matters, the question arose as to what should be the response in prayers.

RESOLUTION: After discussion by the Sacred Congregation on January 29, 1898, it was decided to respond as follows: "Regarding the question: 'Whether and how the custom of the Chapter of Signina should be confirmed, so that it becomes obligatory for indulgences,' the response is: Negatively, and the Bishop, in cases of necessity, should use the remedies granted to him by law, so that no detriment to the divine service may occur."

FROM THE SACRED CONGREGATION FOR BISHOPS AND REGULAR CANONS OF ACQUI, OR LUÇON: CONCERNING INDEMNIFICATION. March 11, 1898.

SUMMARY OF THE CASE: The priest, Augustus Onesimo Cailleton, of the diocese of Luçon, a religious professed under the name of Father

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Laurent, in the monastery of Saint Michael of Frigolet, of the Order of Prémontré, in the diocese of Acqui in France, was dismissed by the Ordinary of that diocese, the Apostolic Visitor of the aforementioned monastery, by a decree of October 26, 1894, for a period of two years and a half after the renewal of his religious profession. Against this...

[*Latin ed. p. 728*]

728 AIX. OR LUCIONEN. The decree of Pope Leo XIII intervened in the matter before the Holy Congregation of Bishops and Regular Canons, requesting 1. That his profession be recognized as valid, and 2. That, inasmuch as this second profession had been declared null, it be healed from the root. However, the petition of Father Laurent was entirely rejected by the Holy Congregation by decree of May 14, 1895, with a negative response to both requests. Then, Father Laurent initiated another course of action against the Order of Prémontré, namely, he proposed an action for damages before the same Holy Congregation. 1. Because he had been sent by his Superiors of the Order to complete his novitiate in England, in which region he contracted illnesses; 2. Because, due to his dismissal from the Order, he lost the means necessary for his sustenance, and he could not obtain any income from the secular clergy. But the proposed question, under the formula of a doubt: Whether and in what manner there is a place for an action for damages in this case, was dismissed by the Holy Congregation on May 8, 1896, with the response: Negatively in all respects. Against this resolution, Father Laurent implored the benefit of a new hearing, and simultaneously requested intervention in the case of the former General Superior of the Order, Father Paulinus, who, according to Father Laurent, was the cause of the damages. The Holy Congregation admitted a new discussion of the case and, with regard to the second point, responded on March 9, 1897: Consideration will be given to the proposal of the case with regard to its merits. However, the defender of the former Religious, Father Laurent, sent a communication regarding the treatment of this incidental question in the present judgment, reserving the right to elaborate on it, should it be necessary, in another judgment after the decision of the Holy Congregation.

SYNOPTIC DISCUSSION

REASONS FOR CONFIRMING THE DECISION. — The Archbishop of Aix, with regard to the question of intervention in the case of the former Religious, Father Paulinus (in the world, Boniface), argued that it should in no way be granted. For 1. Father Paulinus has been condemned and suspended several times by the Holy See and still persists in his rebellion,

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because, indeed, with his writings and words, he incited the very plaintiff.

[*Latin ed. p. 729*]

AVENION. OR LUGION. 729. Father Laurent is attempting to subvert the legitimate authority of his Superiors. 2°. Father Paulinus unjustly detains the goods of the Convent of Saint Michael, and although he has been repeatedly ordered by the Holy See to restore them, he refuses to comply. 3°. Furthermore, Father Paulinus cohabits with a woman of suspicious reputation, and he has not hesitated to solicit money from the faithful for a certain pious work under the name of "The Work of Purgatory," and the Archbishop of Avignon has warned the faithful against Father Paulinus's deceptions, denouncing him in a public gazette commonly known as *La Semaine Religieuse*. Therefore, since the conduct of Father Paulinus is manifest, he must be entirely excluded from the present judgment, and his intervention in the case, to offer testimony in favor of Father Laurent, must be denied. The Archbishop then proceeds to the principal question and maintains that the judgment of the Holy Congregation should be confirmed. Father Laurent must bear the responsibility for the outcome of the previous judgment; for if he had not associated with Father Paulinus after he was expelled and condemned from the Religious Order, and if he had shown obedience to his legitimate Superiors, they would easily have demanded a remedy for the root of his double profession. But on the contrary, Father Laurent, having been dismissed from the Order, fled to Father Paulinus, whom he aided with words, writings, and money in his rebellion against the Order; he visited him repeatedly, even though he lived with a wicked woman, and sought counsel from him. Moreover, Father Laurent, having been expelled from the Order, still retains the religious habit in defiance of the prohibition of his Superiors, and he refuses to return the sum of money given to him by the Order for the expenses of founding a new convent. Therefore, the request for compensation from Father Laurent is rightly and justly denied. REASONS AGAINST THE DECISION. — On the contrary, the Defender of the former Religious, Father Laurent, argues that the Order of Prémontré is obligated to compensate his client, both out of justice and out of equity. The Defender attempts to prove that the Order is indeed liable for damages based on the fact that Father Laurent was admitted to the Order by unanimous suffrage.

[*Latin ed. p. 730*]

730 AT LUÇON. The matter is divided by only two opposing arguments, and it was received by the choir, as evidenced by the notes in the records of the Community, by Father Laurent and Father Paulino, who was then Superior. Indeed, Father Laurent, having been dismissed from the Order, obtained no compensation: he is forced to bear heavy expenses to care for his health, and he cannot appeal to the diocesan fund of Luçon, intended

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for sick priests. Therefore, he concludes that the Order must bear these expenses, since it is well known that he who causes damage is bound to compensate for the damage. Then, the defender, having noted that the Order supports its assertions with no document, except for the report of the Procurator General of the Order itself, proceeds to refute the accusations of the opposing party. The first accusation from the side of the Order is that Father Laurent went to Rome without the permission of his Superiors, after the decree by the Holy Congregation expelling Father Paulino from the Order. The defender replies that Father Laurent did so out of Christian charity, both to defend his former Superior and to suspend the civil lawsuit against the Order before the Tribunal of Torascap in France. Furthermore, the defender rejects the letters full of threats and contempt directed towards the Superiors, which were addressed to Father Laurent: no copy of these letters has yet been produced by the Order. Regarding the reasons for the money collected by Father Laurent in favor of the Order, which have been requested many times and never presented, the defender replies that these are now found in the records, and the delay in presenting them is excused by the absence of Father Laurent from his residence. Furthermore, it is false, the defender continues, that Father Laurent experiences repugnance for the life of the Community. If this were the case, why was he sent to found a new religious house, as evidenced by a letter from the Superior dated November 12, 1891? It is true that Father Laurent did not return to the Monastery according to the term set by the Superior at Easter of the year 1894. But this term had been extended by the Superior, Father Denis, to the following feast of the Most Holy Trinity, at which time the Convent...

[*Latin ed. p. 731*]

AQUÉN, OR LUÇON. In the year 731, he [Father Laurent] repeated [his complaint], without any contrary observation being made against him. After dismissing other accusations of lesser importance, which the Pro-Curator General accumulates in his informative reports, but which are not substantiated by any valid document, the Defender concludes that the Order of Prémontré, after due consideration, is obligated to provide compensation to the dismissed Father Laurent. But if not by justice, then at least by equity, some compensation is due to Father Laurent, according to the Defender. On the one hand, we are dealing with a sickly priest, deprived of all assistance, and who cannot obtain any help from the diocesan fund of Luçon. On the other hand, the Order of Prémontré possesses abundant resources: it therefore seems consonant with Christian charity that it should provide assistance to the priest in need, who served in the Order for many years and from whom it has obtained considerable benefits. Considering both sides of the matter, the following question was proposed for resolution: Whether one should adhere to or depart from the decisions made in this case. RESOLUTION. On March 11, 1898, the Sacred

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Congregation of Bishops and Regular Canons, after mature deliberation, responded: Affirmative to the first part, negative to the second.

ALBI. REGISTRY. On March 18, 1898. SUMMARY OF FACTS. — In the parish of our Lady in the town of Mozamet, in the diocese of Albi in France, a monastery called Saint Agone has been established: this is a diocesan congregation, and the titular priest of said parish, Brugnière, has exercised the office of Confessor there for many years: the monastery has chaplains, and a chaplain who, by delegation of the Ordinary, also explains the word of God to the nuns.

[*Latin ed. p. 732*]

752 ALBI. Within the same parish, and not far from the Monastery, another house has arisen, founded by the same nuns, or sisters, for the education of orphaned girls. This pious house, as an adjunct to the Monastery, lacks a chapel and a chaplain; and the girls being educated attend the parish church for divine services. However, the confessor for these girls is also the parish priest of Brugnière. Furthermore, within the boundaries of the same parish, there exists another Monastery of Poor Clares, subject to the rule of enclosure, with its own chapel and chaplain. However, concerning the office of confessor, the Archbishop of Albi maintains that this office has been exercised by the parish priest of Saint-Salvator, while the parish priest of Brugnière asserts the contrary, and moreover complains of the jurisdiction that has been taken away from him over this monastery. Nevertheless, it is certain that, as evidenced by a letter dated October 18, 1892, the parish priest of Brugnière has been deprived by the Archbishop of Albi of the office of confessor, of direction, and of all influence, both over the Monastery of the sisters of Saint-Agnes and over the orphaned girls, and also over the other Monastery of the Poor Clares. To carry out these duties, the parish priest of Saint-Salvator, the dean of the parish priests of the locality of Mozamet, has been appointed. By virtue of this appointment, the parish priest of Saint-Salvator not only exercises the office of confessor and directs the aforementioned monasteries, but also performs the solemn functions within them, administers the sacraments to the dying, attends to the funerals of the sisters and nuns, leads the bodies to the cemetery with his clergy, and, passing through the parish of Our Lady with a raised cross, administers First Communion to the orphaned girls, in all of which the parish priest of Brugnière is excluded. Contrary to these dispositions of the Archbishop, the parish priest of Brugnière appealed to the Sacred Congregation of Bishops and Regular Canons, seeking to have his rights restored within his parish, rights that have been trampled upon by the parish priest of Saint-Salvator. A SYNOPTIC ACCOUNT OF THE RIGHTS OF THE PARISH PRIEST OF BRUGNIÈRE. — The parish priest,

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in French, "of Our Lady," briefly concludes his defense. He himself...

[*Latin ed. p. 733*]

ALBI. In the year 733, a decree was issued, or rather, a law contrary to common law, or canonical law, which reserves to the parish priests, with regard to funerals and the administration of the sacraments, jurisdiction over those subject to them, or their parishioners. Furthermore, it invokes, in its favor, diocesan statutes, approved by the Holy See, concerning the parish priest. In these statutes, it is truly established that the funerals of parishioners and of religious persons belong to the parish priest. And if this applies, according to the custom of the diocese, to religious persons residing in hospitals and infirmaries, who have their own chaplain and church, then it applies even more forcefully in the case of sisters and orphan girls. Regarding the alleged deprivation of the office of Confessor in the aforementioned institutions, the parish priest asserts that he was punished by the Archbishop precisely because he did not show due signs of reverence to the Archbishop in certain circumstances, for example, because he did not visit him when another parish priest of Saint Savior was present to administer the Sacrament of Confirmation. But the parish priest defends himself against this impious accusation, and maintains that this was not a just reason for inflicting such a severe penalty upon him.

JURISDICTION OF THE ARCHBISHOP OF ALBI. On the contrary, the Archbishop of Albi refutes the argument drawn from the diocesan statutes, observing that the statutes do not concern the funerals of religious persons who are cloistered and have a public chaplain, and who are not subject to the jurisdiction of the parish priest. Indeed, that the chapel of the Sisters is public is evident from the fact that it has an entrance onto a public street, and on holy days of obligation, the people are freely admitted to it for Mass and divine services. Thus, D'Annibale states in his *Summula Theologica Moralis*, volume 3, number 5: "Oratories are considered public either by their location or by the people who use them. Those are public by location which have an entrance that adjoins a public street; but even if an oratory is located in the middle of a field or in the buildings of private individuals, it is considered public if there is access to it from a public road, or if the owner of the land or building has renounced his right of domain over that location. Those are considered public by the people who use them, which are those that exist in the houses of..."

[*Latin ed. p. 734*]

734 ALBIEN. separated [from parishes], and therefore also from the Cardinals of the Holy Roman Church, and from those things which exist in public religious buildings, such as monasteries, seminaries, colleges, etc. Cf. De Bonis De Orat. pub. n. 236. Ferraris, Bibliotheca canonica, in the word "Oratory," etc. Hence, in this matter, diocesan statutes are improperly

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invoked. Furthermore, the aforementioned monasteries are exempt from parochial jurisdiction and are immediately subject to the Ordinaries, as is proven by 1) from the Provincial Council of Bourg in the year 1830, where it is clearly stated that cloistered monasteries are subject to the authority of the local Bishops, excluding the parish priests; 2) by the authority of M. André, who in his course on Canon Law, § Monasteries, teaches that parish priests can exercise their rights within them, unless the Bishops dispose otherwise; and by R. P. Bertier de la Salette, who in his theological manual, edition 1892, n. 3443, states that, although said monasteries, with regard to the administration of the Sacraments and the care of the dead, cannot be withdrawn from the jurisdiction of the parish priests by the Bishops according to common law, nevertheless, according to the custom received in Gallia, the same Bishops can dispose otherwise. Finally, the Archbishop notes that the confessors of nuns, by the disposition of the law, cannot remain in this office for more than three years. Therefore, if a parish priest of Brugnière held this office for 20 years, it certainly happened with the tolerance of the Archbishop, although just and serious reasons might have been present to remove him from such an office.

OBSERVATIONS FROM THE OFFICE. — According to canonical jurisprudence, the office of ordinary confessors in monasteries of nuns, or in any other community of women, is limited to three years. This is clearly taught by the Sacred Congregation of Bishops and Regulars in Decrees, March 4, 1591; in Ragusina, October 2, 1626, and in numerous other resolutions; it is also consistent with Ferraris in his Bibliotheca canonica, V. Moniales, n. 19; Lucidi de Visit. SS. LL., V. 2, 148; D'Annibale in his Summula Theol. Moral., and others. After the three years, the office of ordinary confessor cannot be extended by the Bishop without the consultation of the Apostolic See. See the lectures on canon law given in the Seminary of St. Sulpice, Vol. 2, page 333. Colo J.

[*Latin ed. p. 735*]

ALBIEN. 735. Lectio. Decretum Sacrae Congregationis de Propaganda Fide, n. 433, et n. 436. Immo, auctores tradunt quod ad hoc munus non debet eligi parochus, quia est distentus in aliis officiis parochialibus. Relatae Praelectiones iuris canonici, I, c.; Bouix, in tractatu de Regulis, 5; Ferraris, I, cit. Quoad funera vero et administrationem extremorum sacramentorum, haec privativamente spectant ad Confessarios Monialium. Ita videtur rescripsisse Sacra Congregatio, die 4 Februarii, 1872. Demum, ad puellas convictrices seu degentes in monasteriis monialium, educationis causa, Rmus Summista seu extensor folii, ex officio, adducit doctrinam Bouix, de Iure Regularium, sequentibus verbis expressam: « Advertat lector quod aliquod hospitale, aliquod collegium personarum, aut alius locus pius, per solam auctoritatem Episcopi, bene potest esse exemptum ab obligatione paschali communionem excipiendi in paroecia, nec non recipendi a paro-

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cho viaticum et extremam unctionem. Unde, in hac hypothesi, etiam quod certum sit ius parochi de quo agimus, relative ad dictos iuvenes convictrices et dictas puellas in monialium conventibus degentes, sufficit decretum episcopale ad suspendendum hoc ius parochiale, quia tandem potest Episcopus hisce iuvenibus et puellis facultatem concedere communionem paschalem in sacello conventus, quem incolunt, faciendi, atque item potest pro administrando ipsis viatico et extrema unctione deputare collegii directores, quoad dictos iuvenes, et cappellanum Monialium, quoad dictas puellas ». Hisce praehabitis, supposita fuerunt enodationi sequentia:

Dubium 1. An Archiepiscopus, in casu, habeat ius, excluso parocho Nostrae Dominae, concedendi jurisdictionem super Orphanis puellis, a Sororibus a S. Agone directis, alio sacerdote, cum facultate eisdem puellis administrandi extrema Sacramenta, celebrandi earum funera, et comitandi cada-

[*Latin ed. p. 736*]

736 ALBI. Upon passing through the public cemetery, one also traverses the parish of Our Lady. 2. Whether the Archbishop, excluding the aforementioned parish priest, has the right to grant another priest jurisdiction over the Sisters of St. Agnes, with the power to admit orphaned girls to their chapel for their First Communion, to administer the last sacraments to the Sisters, and also to perform their funerals and to carry their bodies to the public cemetery, even when passing through the parish of Our Lady. 3. Whether the Archbishop, excluding as mentioned above the parish priest, has the right to transfer jurisdiction over the monastery of the Poor Clares to another priest, with the power to administer the last sacraments to the nuns of the Poor Clares, to preside over their funerals, and to accompany their bodies to the public cemetery, also passing through the parish of Our Lady.

RESOLUTION. On March 18th, the Most Holy Congregation of Bishops and Regular Canons, after considering all matters and resolving all doubts, responded as follows: Regarding the dispositions of the Archbishop of Albi concerning the parish priest of Our Lady, the answer is: AFFIRMATIVE in those matters pertaining to the duties of a Director and Confessor. NEGATIVE in those matters pertaining to strictly parochial rights, which must remain fully with the parish priest of Notre Dame.

FROM THE HOLY CONGREGATION OF RITES OF NAPLES concerning the Beatification and Canonization of the Venerable Servant of God, Sister Mary Julian, of the Most Holy Sacrament, of the third order of the Servants of the Most Blessed Virgin, of the Seven Sorrows, and the Mistress of the Monastery of the Mantillatarias of St. Augustine. Among the blessings which divine clemency is wont to bestow upon spouses who fear God and walk in His ways, the Royal Psalmist also praises her offspring, namely

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her children, who, like new olive trees around the table, are reclining.

[*Latin ed. p. 737*]

From the Sacred Ritual, 737, joy brightens the faces and spirits. Such a blessing was bestowed upon the family of Fortunato Arenare, a distinguished physician, and Clara Franzese, who had six children worthy of their parents: Michael and Francesca in the state of marriage, Angel and Raphael in the Sacred Order of the Priesthood, Mary Julian and Mary Margaret in the religious congregation of the Third Order of the Most Blessed Virgin Mary of the Seven Sorrows. Of these, the third was the Servant of God, Sister Mary Julian, born in Naples on February 23, 1816, and named Angela at the sacred font. From her tender years, she showed clear signs of a future life of perfection, and through prayer, modesty, obedience, and mercy towards the poor, she earned the favor of the Most Blessed Virgin, as if a mother and teacher. Scarcely seven years old, she was anointed with sacred chrism and admitted to the first Holy Communion, receiving at the same time the strength of the Holy Spirit and the sweetness and delights of the Bread of Angels. Obeying her parents' wishes and admonitions, she devoted herself more to domestic tasks and manual labor than to letters and the arts; and she proposed to imitate the example of the Holy Family. For many years, she had a pious priest, Anthony Coppola, as her spiritual director, who encouraged her to put on the habit of the Third Order of the Most Blessed Virgin Mary of the Seven Sorrows, taking the name Mary Julian of the Most Holy Sacrament, and through various degrees of mortification, she bore abundant fruit of holiness. But God was preparing another equally pious priest, a master in Christian perfection, for His handmaid. Illuminated by heavenly light, she asked the ecclesiastical man, Vincent Longo, from the Congregation of the Oratory of Saint Philip Neri, to guide her conscience, and after making her vows, she employed him in this work until his death. At his urging, she, at the age of twenty-five, despising the pleasures of the world, left her father's house and entered the monastery of Saint Monica, of the Mantellate Sisters of Saint Augustine. There, after spending some time as a guest, and having performed the duties entrusted to her excellently, she was subsequently appointed as the administrator of the monastery, with the full approval of the Archbishop of Naples. It was discovered that the Servant of God tasted the sweetness of heavenly gifts in the course of her life; and at the same time, she was subject to many and grievous infirmities; in which, like gold tried by fire, she shone with a more brilliant virtue. For she did not fail to endure these infirmities with a strong spirit and a serene countenance, either as a sign of her penance and obedience, or as... (The text is incomplete).

[*Latin ed. p. 738*]

738 From the Sacred Rites, for the comfort of other sick people, she freely

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offered herself to God, so that they might recover. This was marvelously evident in the extreme illness with which she was afflicted. It was the month of September in the year 1857, and to strengthen her health, according to the doctor's prescription, Mary Juliana went to the town of Oppido Resina. There, she was received with hospitality by the family of the Marchioness Vigo, who were accustomed to being joined by her. But when she was completely and healthy, she was about to return to Naples, when another daughter of the Marchioness fell gravely ill. Then, the Servant of God, willingly accepting the advice of her own confessor, Vincent Longo, offered herself as a sacrifice for the dying girl, following the example of the Apostle who exclaimed: "Who is weak, and I am not weak? Who is scandalized, and I am not scandalized?" This offering, it is clear, ascended to Heaven in a pleasing fragrance, having been accepted by Divine goodness, both from the similar illness with which Mary Juliana was suddenly afflicted, and from the death that followed, by which, in place of the girl being restored to her former health, she herself, on the 25th of October of the same year, passed away most piously, after having been strengthened with the most holy viaticum and anointed with the sacred oil of the sick. The body of the Servant of God, clothed in religious vestments, remained there for one day, so that the people's devotions might be satisfied. On the following day, it was brought to Naples and laid exposed for three days in the church of Saint Monica, where a multitude of citizens gathered; until, after the funeral rites were solemnly performed, it was buried near the altar of the Sorrowful Virgin Mary. Meanwhile, the fame of the holiness that Sister Mary Juliana had acquired during her life, after her death, increased daily, so that the Ecclesiastical Court of Naples instituted and completed an Ordinary Process concerning this very fame. This, when presented and opened to the Congregation of Sacred Rites, at the request of the Most Reverend Raphael Virili, Archbishop of Urban, and Promoter of the Cause, and the writings of the Servant of God having been approved, an Apostolic dispensation was granted to propose the question of introducing her Cause in the Ordinary Congregation before the lapse of ten years, and without the intervention and vote of consultors. Therefore, at the request of the same Reverend Promoter, and after considering the letters of recommendation from several Most Reverend Cardinals, several Sacred Prelates, and Chapters, as well as other men of outstanding ecclesiastical dignity, even from religious Orders and Congregations, the following Cardinal, Prefect of the Congregation of Sacred Rites and Relator of this Cause, proposed the following question for discussion at the meetings of the Ordinary Congregation of the same Sacred Congregation, held at the Vatican on the date indicated below:

[*Latin ed. p. 739*]

FROM THE SACRED RITUALS, 739: "Should the Commission for the introduction of a cause be signed in this case, and to the effect of what

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is being considered?" And the Most Eminent and Reverend Fathers, Prefects of the Sacred Congregation for the Propagation of the Faith, after hearing the report of the undersigned Cardinal, and after also hearing the Reverend Father D. John Baptist Lugari, Promoter of the Holy Faith, and after carefully considering all matters, decided that it should be written: Affirmative, that is, the Commission should be signed, if it pleases the Most Holy [Pope]. April 26, 1898. All of which was reported to the Most Holy Lord, our Pope LEO XIII, by the undersigned Cardinal, Prefect of the Sacred Congregation for the Propagation of the Faith, and His Holiness, considering the judgment of the Sacred Congregation itself to be valid, deigned to sign the Commission for the introduction of the cause of the Venerable Servant of God, Mary Julian, of the Most Holy Sacrament, on the twenty-ninth day of the same month and year.

C. CARD. MAZZELLA, Bishop of Praenestinus, Prefect of the Sacred Congregation for the Propagation of the Faith.

L. 8 S. DIOMEDES PANICI, Secretary of the Sacred Congregation for the Propagation of the Faith.

Concerning the beatification and canonization of the venerable Servant of God, Mary Adeodata Pisani, a professed nun of the Order of Saint Benedict, in the Monastery of Saint Peter.

As many, or rather, countless men and women, desiring to follow the path by which the beloved Lord Benedict ascended into Heaven, have embraced holiness, following the footsteps of the holy Patriarchs and embracing discipline and order. Among those who deserve to be numbered among them is the pious virgin, Mary Adeodata Pisani, distinguished by the nobility of her lineage and the practice of virtue, who renounced earthly possessions, riches, and marriage, in order to be enriched with spiritual and heavenly treasures and to be united with the divine Bridegroom. She was born in Naples on December 29, 1806, to most illustrious parents, Benedict Pisani Mompalao, of Malta, a nobleman of Trigenuini, and Vincentia Carrano, of Naples, and was regenerated by the sacrament of baptism, and was named Teresia. Little is known of her early years, but it is certain that she was religiously educated, both at home and at the College of Saint Mary of Miracles. When she was almost nineteen years old, her parents took her to Malta, where, through pious custom and familiarity, she influenced many to progress in virtue. She was obedient and submissive to her elders, and devoted to solitude.

[*Latin ed. p. 740*]

740 Possessed by a most fervent love for the Sacred Liturgy, she provided a shining example of modesty and piety to other young women, especially by frequently attending Mass in the church, and by praying fervently before the image of the Virgin Mary, her most beloved Mother. Having prepared herself through these good works, and with the help of the most blessed

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Virgin, she was divinely called to the path of perfection. Therefore, on July 16th of the year 1828, with the unanimous consent of her superiors and companions, she entered the Benedictine Monastery of Saint Peter in the city of Lodi, and received the religious name of Adeodata. After completing her novitiate with great merit, on March 8th of the year 1830, filled with inexplicable joy, she pronounced her solemn vows. Subsequently, diligently striving for religious perfection, she devoted all her strength of mind and body to attaining it. Appointed to the office of cellarmist, guardian of the gate, and responsible for the sacristy and the education of the novices, she performed these lower duties so well that she deserved to be promoted to higher offices, or rather, was advanced through obedience. For this reason, on June 26th of the year 1851, having relinquished the office of Abbess for two years, she governed the monastery with gentleness and strength, maintaining discipline, and receiving the praise of the nuns and the approval of the Bishop of Malta. Having completed her two years and relinquished her office, the Servant of God, inclined more towards obedience than towards authority, although she possessed both, diligently and piously observed the rules of the monastery. However, she was afflicted by a long-lasting illness that worsened daily, which she patiently endured for the love of Christ, and on February 25th of the year 1855, in the forty-ninth year of her age, after having been strengthened by the sacraments of the Church, she peacefully fell asleep in the arms of the Lord. Immediately after her death, citizens from all walks of life flocked to the monastery and the church where the body of the Servant of God was exposed for the funeral, celebrating her virtues and holiness with the highest praise. And as this fame grew stronger with the passage of time, it opened the way for an ordinary investigation to be conducted concerning her in the ecclesiastical court of Malta, the records of which were sent to Rome and presented to the Congregation of Sacred Rites. In the meantime, the writings attributed to the same Servant of God, under whatever title, were properly investigated, reviewed, and approved, and, with Apostolic permission, a discussion was granted regarding the introduction of the cause within a decade and without the intervention or vote of consultants. Therefore, at the urgent request of the Most Reverend Alphonse Canon Carinci, the promoter of this cause, and also in the name of the current Archbishop-Bishop of Malta, and considering the letters of recommendation from several Most Eminent Cardinals of the Sacred Roman Church, many...

[*Latin ed. p. 741*]

FROM THE SACRED CONGREGATION OF RITUAL, 741. Concerning the Sacred Ministers of the Roman Rites, as well as Chapters and other pious or religious associations of both sexes, specifically the Noble Congregation of Malta and another honorable one, the Most Eminent and Reverend Cardinal Vincent Vannutelli, of the same Cause, in the Ordinary

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Assembly of the Sacred Congregation of Rites, held on the day indicated at the Vatican, proposed the following question for discussion: Whether a Commission should be appointed for the introduction of the Cause, in the case and to the effect of which we are speaking? And the Most Eminent and Reverend Fathers, entrusted with the safeguarding of the sacred Rites, after the report of the aforementioned Eminence, having also heard the voice and the written opinion of the Most Reverend Father John Baptist Lugari, Promoter of the Holy Office, and having considered all matters carefully, judged it fitting to respond: Affirmative, that is, a Commission should be appointed, if it pleases the Most Holy [Father]. April 26, 1898. Subsequently, a report on these matters was made to the Most Holy Lord Pope Leo XIII by the undersigned Cardinal, Prefect of the Sacred Congregation of Rites, and His Holiness, having approved the Decree of the aforementioned Sacred Congregation, deigned to sign the Commission for the introduction of the Cause of the Venerable Servant of God, Mary Adeodata Pisani, on the twenty-ninth day of the same month and year.

C. CARD. MAZZELLA, Bishop of Palestrina, Prefect of the Sacred Roman Congregation.

L. S. DIOMEDES PANICI, Secretary of the Sacred Roman Congregation.

REGARDING THE BEATIFICATION AND CANONIZATION of the Venerable Servant of God, Father Francis of Ghisone, professed cleric of the Order of Friars Minor of Saint Francis.

ON THE QUESTION: Whether it is established that the theological virtues of Faith, Hope, and Charity in God and in neighbor, and also the Cardinal virtues of Prudence, Justice, Fortitude, and Temperance, together with those attached to them, are present in a heroic degree, in the case and to the effect of which we are speaking? The remembrance of the lives and virtues of the saints is always salutary, especially in times adverse to virtue and faith.

[*Latin ed. p. 742*]

742 FROM THE SACRED CONGREGATION OF RITES. Furthermore, among those who, at the close of the preceding century and the beginning of our own, left behind a great desire for their virtues, Francis of Ghisone, a venerable man, and a disciple of Saint Francis, must rightly be included. The town of Ghisone is located on the island of Cyrnaea. There, in the year 1777, Francis was born. His parents were Martin Mucchiellius, who was soon called to his rest, and Anne Gregoria. These parents devoted themselves to raising their son in piety from an early age, and this was made easier by the abundant examples of virtue that they could offer him from their own lives and conduct. It is said that during the age in which boys are most often given over to foolishness and play, this boy did nothing childish; indeed, he avoided all frivolities, even beyond his years. His sole concern was the pursuit of learning and piety. He was most devoted to silence

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and solitude; through labor, diligence, prayers, and devotion to the great God, he sharpened his keen intellect, and he strengthened his memory through practice. Although the impudence of his schoolmates sometimes troubled the gentle boy, as often happens, he himself took care to avoid being angered by their rudeness, nor did he allow himself to be offended by their contempt. Every moment that he had free from study, he spent in the house of the Franciscan confraternity or in the sacred chapel, mingling with those who were praising God, or serving at the Holy Sacraments. When he was eleven or twelve years old, he was orphaned by the death of his mother; therefore, he was entrusted to the care of his elder sister, and then to his uncle, who was living in Rome. In that city, he spent some time learning the art of carpentry. One day, in order to avoid the company of some companions, he went to visit a Franciscan confrater who was a man of outstanding virtue and great prudence. This man, recognizing the piety of the young man and his deep devotion to the Seraphic Father, asked him if he would like to be enrolled among his students. To this, the young man replied that he desired nothing more, and he was immediately sent to Civitella, where he was to begin his training in the religious life. This retreat, founded by Saint Francis himself, is located about seven Roman miles from Sublaqueo, among the rugged mountains of the Apennines. From the examples of piety that Francis displayed from the beginning, one can infer what he later showed to others as an example. After a year of probation, he received the religious habit. Then, after being initiated into the sacred mysteries, and being ordered to prepare himself for the higher orders, he begged God with prayers not to allow him to be found unworthy to approach the sacrifice.

[*Latin ed. p. 743*]

From the Sacred Rites, 743: Vows are made; he was immediately afflicted with the disease of epilepsy, and this worsened from day to day, preventing him from attending Mass. From this, he began to be incited to virtue, and especially two virtues shone forth in him: humility and patience. As others experienced, some were wont to bite him with envy, and to treat him contemptuously. But the most patient Servant of God bore this not only without complaint, but with benevolence. To this, he added voluntary bodily torments, which were sufficient to break even the strongest. In taking food, he was not so much sparing as unjust to himself. He never touched the most delicate foods, if they happened to be on the table. He imposed upon himself iron chains, *cilicia*, and other punishments of this kind so frequently, that those who were his guides in conscience believed that he was striving to torture himself. How great was the sanctity of Francis, God Himself testified on more than one occasion. Many things are reported about him that surpassed the powers of nature, but especially remarkable are those things that happened at his death. After his death, as the fame of

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his sanctity increased more and more, the cause for his Beatification began to be promoted before the Congregation of Sacred Rites, so that he might be granted the honors of the blessed. Therefore, after certain investigations were made, and diligent expenses incurred, and other things were carried out according to the law, a formal inquiry was instituted regarding the heroic virtues of the Venerable Francis of Ghisone. First, the doubt was discussed in a preparatory meeting before the Most Reverend Cardinal Aloysius Billio, the Relator of the cause, on the eve of the Kalends of June in the year 1883; then, the cause was again discussed in two preparatory meetings in the Apostolic buildings at Vatican, on the eve of the Nones of May in the year 1890, with the Most Reverend Cardinal Raphael Monaco of Valletta; and finally, before the Most Holy Lord, our Pope Leo XIII, in the same buildings at Vatican, on the eve of the Ides of March of the following year; when the same Most Reverend Cardinal Vincent Vannutelli proposed the following doubt for discussion: Whether it is established that the Venerable Servant of God, Francis of Ghisone, possessed the theological virtues of Faith, Hope, and Charity towards God and his neighbor, as well as the cardinal virtues of Prudence, Justice, Temperance, and Fortitude, together with their corresponding virtues, in a heroic degree, in the case and to the extent that is being considered? Although the opinions of the Most Reverend Cardinals and Consultors were unanimous in affirming this, and from this a happy omen can be taken regarding the outcome of the cause.

[*Latin ed. p. 744*]

744 From the Sacred Congregation of Rites, concerning a matter of such importance, the Most Holy Father decided to postpone his judgment, more eagerly awaiting the aid and light of God's grace. Today, on the Sunday after Pentecost, having most piously celebrated the Eucharistic Sacrifice, he entered this Vatican hall, and wished to summon the Most Reverend Cardinals Camillus Mazzella, Bishop of Praeneste of the Holy Roman Church, Prefect, and Vincent Vannutelli, Relator of the Cause, together with the Reverend Father John Baptist Lugari, Promoter of the Holy Faith, and myself, the undersigned Secretary: and in their presence, with supreme authority, he solemnly declared: That the theological virtues of Faith, Hope, and Charity towards God and neighbor, as well as the cardinal virtues of Prudence, Justice, Temperance, and Fortitude, and those virtues which are joined to them, are clearly demonstrated in the Venerable Servant of God, Francis of Ghisone, in a heroic degree, in the case and with regard to the effect in question. He ordered that this decree be made public and recorded in the acts of the Holy Roman Church on the fifth day before the Kalends of July, in the year 1898. C. CARD. MAZZELLA, Prefect of the Holy Roman Church. L. * S. DIOMEDES PANICI, Secretary of the Holy Roman Church, from Brixia. Concerning the Beatification and Canonization of the Venerable Servant of God, Mary Magdalene Martinengo a Barco, a Capuchin nun

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professed in the Monastery of Brixia, of the Most Holy Mary of the Snows. ON THE DOUBT: Whether, after the approval of one miracle, it is sufficiently established that another miracle has occurred, so that the process may proceed to further stages in the case and with regard to the effect in question. The Venerable Mary Magdalene a Barco, distinguished by noble lineage, from her tender years, having chosen to follow the footsteps of the Savior Christ, desired to dedicate herself to divine things. Indeed, even then, she sought to devote herself to divine matters with singular ardor of mind and integrity of spirit, and to embrace heavenly things above all else. Therefore, nothing seemed more desirable to her than to leave her family and her father's house,

[*Latin ed. p. 745*]

FROM SACRED RITUALS 745, she bound herself to God with an irrevocable vow of chastity. Therefore, having set aside the riches of her noble house, and having scorned worldly marriages, in Brixiae, having taken the vows among the Capuchin Sisters of St. Mary of the Snows, she possessed nothing more ancient than the desire to hide herself in obscurity, to match her actions with the vigilance and sobriety of the saints, and to subdue the boldness of the body through flagellation and fasting. Having perfectly fulfilled all virtues, she left examples of penance more admirable than imitable. After having struggled for three years with infirmities which she bore with a cheerful and constant spirit, in the year 1737, on the sixth day before the Kalends of July, having reached the end of her days, rather through labor than through age, in Brixiae, where she had been born fifty years earlier, she ascended to her heavenly spouse. Many felt the present help from the tomb of the Venerable Mary Magdalene. These remarkable documents, presented by Divine Providence to illuminate her tomb, spurred the Capuchin Fathers, as well as the clergy and the people of Brixiae, to promote the cause of Mary Magdalene before the Congregation of Sacred Rites. Therefore, after all things were properly completed, the Blessed and Holy Pope Pius VI solemnly decreed on the third day before the Nones of May in the year 1778 that the heroic virtues of Mary Magdalene had reached a high degree. Subsequently, the investigation regarding the miracles, which, with her intercession, were said to have been miraculously granted, after proper deliberations and the completion of all legal requirements, the same Supreme Pontiff solemnly decreed on the fifth day before the Nones of March in the year 1793: "That the instantaneous healing of Isabella Groppelli, who had been afflicted with consumption to the point of extreme weakness, is established." This was the greatest hope, at the end of the previous century, that the Venerable Servant of God would be granted the honors of the blessed, due to her heroic virtues. However, since the miracle required by law was lacking, it was necessary to halt the progress of this noble cause. In our time, diligent promoters of the cause

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proposed another miracle worthy of consideration, namely, the sudden and miraculous expulsion of blindness and darkness from the left eye of a young boy named Joseph Tosi. Four discussions were properly conducted: the first, in the preparatory meeting held in the house of Cardinal Aloisi-Masella, the Relator of this cause, on the day after the Ides of July in the year 1895; the second and third, in the preparatory meetings held at the Apostolic Palace in Vatican; the first on the seventh day before the Kalends of March of the preceding year, and the second on the eighth day before the Kalends of February of the following year; and finally, the fourth, in the general assembly.

[*Latin ed. p. 746*]

746 From the Sacred Congregation of Rites, a meeting was held before His Most Holy Lord, Pope Leo XIII, on the seventh of the ides of June, recently passed; when the Reverend Cardinal Caietan Aloisi-Masella presented a question for discussion: "Whether, after the approval of one miracle, it is necessary to establish the existence of another, in order to proceed to further steps in the case and to achieve the desired outcome." The Reverend Cardinals and Consultors, each giving their vote, expressed a unanimous opinion. The Most Blessed Father, having heard the opinions of all, hesitated to reveal his mind, but nevertheless foretold that this cause would have a happy and successful outcome; and, about to dismiss the Congregation, he added these weighty words: "May the Venerable Virgin, as she restored the sight of the eyes to the blind boy Tosi, banish the darkness and night from the eyes of the impious who now offend the Church of God more harshly and boldly." Today, however, on the Sunday after Pentecost, after the divine and most religious ceremony was completed, seated on the Pontifical throne in this Vatican Hall, I was summoned along with the Reverend Cardinals Camillus Mazzella, Bishop of Praeneste, Prefect of the Sacred Congregation of Rites, and Caietan Aloisi-Masella, Relator of the Cause, together with the Reverend Father John Baptist Lugari, Promoter of the Holy Faith, and myself, as Secretary, and, in their presence, I solemnly pronounced: "It is established that the adolescent Joseph Tosi experienced an instantaneous and perfect cure from the blindness of his left eye, which was caused by a staphyloma that occupied the middle layer of the cornea." Furthermore, this Decree was ordered to be published and recorded in the Acts of the Sacred Congregation of Rites on the fifth of the nones of July, in the year 1898. C. CARD. MAZZELLA, Prefect of the Sacred Rites. L. S. DIOMEDES PANICI, Secretary. From Plock. Regarding vernacular hymns, which are customarily sung with the organ during the Mass. It was reported to the Sacred Congregation of Rites that there exists in the Diocese of Plock, and in some other dioceses of Poland, a custom whereby, during Masses with singing without the ministers of deacon and subdeacon, or-

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ganists who are also singers, sing only the responses to the celebrant.

[*Latin ed. p. 747*]

FROM THE EDICT CONCERNING RITES 747: As for "Amen" – and "with thy spirit," these are followed in the Latin language; and while others, such as [certain hymns], are used. The Introit and Kyrie are omitted, and during the remainder of the Mass, various vernacular hymns are sung, fostering devotion, and not always hymns that are consonant with the Mass are sung with the sound of the organ. Hence, a request was made by the Sacred Congregation itself: I. Whether the aforementioned use of hymns can be approved, or at least tolerated? II. Whether, in Masses sung without sacred ministers, the organist and choir ought always to perform, with the organ, all parts from the Roman Gradual, either in song or in a manner that is intelligible. And the same Sacred Congregation, after considering the report of the Secretary, and also the careful opinion of the Liturgical Commission, and after all things had been considered, decided to respond as follows: To I. Decrees stand in the way, especially the decree of January 31, 1896 (1). To II. Affirmative. And thus it responded, on June 25, 1898. C. CARD. MAZZELLA, Bishop of Praenestinus, Sacred Roman College, Prefect. L. * S. DIOMEDES PANICI, Sacred Roman College, Secretary. QUEBEC. The first question is reformed concerning the titular feast. I. Does the titular feast of a church, occurring from December 31st to January 5th, have an Octave? To I. Negatively (2). (1) The decree is reported in Volume XXVIII, page 504. (2) Quebec, already reported in Volume XXVIII, page 440.

[*Latin ed. p. 748*]

748 FROM THE HOLY CONGREGATION OF INDULGENCES OF BURGOS, SAINT DOMINIC. Various Doubts Concerning Scapulars. The following doubts, to be resolved, were presented to this Sacred Congregation of Indulgences and Holy Relics: I. Whether it is permissible and valid to use scapulars, which, although made of wool, are covered on one side with silk or cotton fabric, and on the other side with an image that completely covers the scapular, so that the fabric is not visible, or is hardly visible? II. What is to be observed when one scapular bears the image of the Blessed Virgin Mary of Mount Carmel, and another is joined to an image of the Blessed Virgin Mary, Sorrowful, of the Rosary, or even of the Most Sacred Heart of Jesus? III. Whether the names of those enrolled in the confraternity must necessarily be sent to the nearest confraternity, or rather, is it permissible to transmit them to the moderator of any confraternity? IV. Whether, in the enrollment of many, the single formula in the plural number, which can be used according to the Decree of the Holy Congregation of April 18, 1891, should be said before the imposition begins, or rather, only when the first imposition is made? V. In the case described above, when men and

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women are to be enrolled together, is it appropriate to say "Receive, men and women," or simply "Receive this habit, etc.," as is stated in the shorter formula approved in the Decree of the Sacred Roman Congregation of July 24, 1888? Furthermore, the Holy Congregation, after hearing the vote of one of the Consultors, ordered that a response be given to the doubts: To I: Negatively. To II: The variety of images does not affect the validity of the scapular, provided that the color, form, and fabric appear on the scapular, all of which are essential elements; however, this exception does not apply to the scapulars of the Most Holy Trinity and the Passion of the Lord, in which the proper images are also necessary. To III: Negatively to the first part; affirmatively to the second part. To IV: The formula must be said immediately before.

[*Latin ed. p. 749*]

749. When the Scapular is to be bestowed, it should be begun while the priest holds it in his hands. Regarding V. If men could easily be separated from women, and the rite could be performed with a double action, which would certainly be more fitting, then, as is customary, a longer formula could be used, with the necessary modifications; but if, on the other hand, men and women must be assembled together in a single action, then it would be better to use a shorter formula, saying only, "Receive this habit, etc." Given in Rome, from the Secretariat of the same Sacred Congregation, on the 18th of June, 1898. FROM THE SACRED CONGREGATION FOR INDULGENCES. FR. HIERONYMUS M., CARDINAL GOTTI, Prefect. L. R. F. S. ANTONIUS, ARCHBISHOP OF ANTIOCH, Secretary. FROM THE SACRED CONGREGATION OF THE INDEX, concerning doubts regarding the Constitution which pertains to the prohibition of books. To this Sacred Congregation, the following doubts were presented for clarification: I. Whether, under the name of those who are engaged in theological or biblical studies, do students also fall, who are occupied with theology and the Hebrew and Greek languages in the schools of Seminaries? And, if so, affirmatively; II. Whether a Bishop can permit that, in schools, students, under the guidance of a professor, read and translate Hebrew and Greek texts published by non-Catholics, provided that the dogmas of the Catholic Faith are not impugned in the introductions or annotations of such books? The same Sacred Congregation, after maturely considering these doubts on the 18th of June, 1898, judged that the following should be answered: To I. Affirmative. To II. Negative; unless a special permission has been obtained from the Holy See. Given in Rome, from the Secretariat of the same Sacred Congregation, on the 21st of June, 1898.

[*Latin ed. p. 750*]

750 FROM THE HOLY CONGREGATION OF THE ROMAN AND UNIVERSAL INQUISITION: A DOUBT concerning whether a slight interrup-

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tion invalidates the validity of the ordination.

Most Blessed Father,

When the priest N. N. was promoted to the order of the priesthood, the bishop performing the ordination interrupted the formula during the presentation of the instruments. For, having already said: "Receive the power to offer," he turned to the assisting priest and interrupted the formula, asking: "Is there any defect present?" And the assisting priest replied: "No," and immediately the bishop continued: "the sacrifice and the offering, both for the living and for the dead, in the name of the Lord."

The same priest, having prostrated himself at the feet of Your Holiness, humbly begs and inquires whether this interruption harms the validity of the ordination, and what should be done in this case.

On Thursday, April 20, 1898.

In the General Congregation of the Holy Roman and Universal Inquisition, held by the Most Eminent and Reverend Cardinals, General Inquisitors in matters of faith and morals, concerning the aforementioned doubt, and after hearing the votes of the Reverend Consultors, the same Most Eminent and Reverend Fathers ordered that a response be written:

The ordination was valid in this case; therefore, let it be approved.

On Saturday, the 22nd day of the same month and year, during the customary audience granted to the Reverend Father D. Assessor S. O., a report on all of this was presented to the Most Holy Lord N. Leoni, Divine Providence, Pope XIII, and the Most Holy resolution of the Fathers was approved.

I. Can. MANCINI, Notary of the Holy Roman and Universal Inquisition.

[*Latin ed. p. 751*]

FROM THE SACRED CONGREGATION, 751. A QUESTION concerning the baptism of a woman married to a heretical man. From Instruction 16, September 1824, addressed to the Bishop of Quebec. Question 5. A woman married to a heretical man is to be admitted to Baptism. It does not impede, that she be received, and that the husband profess the Catholic religion, although he himself does not wish to become Catholic. The question arises, how should a Catholic missionary act: Should he permit the woman to be baptized, so that she may, with this heretical husband, contract marriage before an un-Catholic minister? Or should he deny her baptism, lest he give her an opportunity to be received by a heretical minister? Or should he baptize her and join her in marriage with the heretical man, which evidently implies communion in the divine? Answer to 5. In the case in question, the missionary should instruct the woman concerning the nullity of the prior marriage, entered into in infidelity with the heretical man, who, being subject to the laws of the Church by Baptism, was hindered by the impediment of disparity of cult. And if he finds that it was rightly arranged,

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he may admit her to baptism, with which also, if she so desires, she may be dispensed by one who has the power to grant such dispensation, so that, after baptism, she may lawfully marry the same heretical man, if nothing else impedes. For as to the validity of the marriage, she would validly contract it in the provinces of Quebec and Canada, due to the extension of the declaration of Benedict XIV of November 4, 1741, made by Clement XIII. However, nothing prevents the aforementioned woman from being lawfully baptized, since, as is stated, she herself wishes to profess the Catholic religion, with the husband's consent. Just as there would not be a pressing reason for dispensing her to marry a heretical man, so it must always be feared that, if the dispensation is denied, she might be turned away from receiving baptism, or that she might receive it from an un-Catholic minister, before whom she would also enter into marriage; which must never be permitted. It would not be forbidden for a Catholic priest to assist at such a marriage. For by the concession of an Apostolic dispensation, it would become lawful, and therefore also the presence of a priest would be lawful. However, as Benedict XIV notes in *De Syn. Dioec.*, book 6, chapter 5, § 4, in those places and regions where such marriages (namely, of Catholics with heretics) are sometimes permitted, it is certainly advisable that the Bishop, in order to safeguard the dignity of the Church, establish regulations for such marriages.

[*Latin ed. p. 752*]

From the Sacred Congregation [of the Holy Office], number 752, concerning the manner in which marriages should be celebrated, it is fitting and prudent to prescribe the following. And first of all, the Bishop must have before his eyes, and, as far as possible, ensure that the practices and rules customarily prescribed by the Holy See are observed, especially when, for grave reasons, dispensations are granted in such marriages, namely: that the marriage be celebrated before the parish priest and witnesses outside the church, and without the nuptial blessing, and without all sacred rites; that the party from Cattolica be gravely warned of the obligation which he has, and which never ceases, to care for the conversion of his spouse and the education of the children of both sexes in the Catholic religion; and finally, that the education of the children of Cattolica be also established in a legally binding agreement.

[*Latin ed. p. 753*]

753 SUMMARY OF THE ACTIONS CONTAINED IN THIS VOLUME XXX: LETTERS AND ACTS OF THE HOLY PONTIFF.

Encyclical Letter of His Holiness Pope Leo XIII concerning the centenary commemoration of the blessed Peter Canisius... page 3.

Letter of His Holiness Pope Leo XIII to His Eminence Cardinal Oreglia, Dean of the Holy College, and to other Eminences Cardinals and Bishops,

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who were present at the solemn canonization of Saint Peter Fourier and Saint Anthony Zaccaria in the month of May. 10.

Encyclical Letter of His Holiness Pope Leo XIII concerning the Rosary of Mary. 129.

Apostolic Constitution of His Holiness Pope Leo XIII concerning the restoration of the unity of the Order of Friars Minor. 225.

Letters of His Holiness Pope Leo XIII to the Ordinaries of the Province of Campania concerning the Institute of Anagni. Extract. 353.

Letters of the Bishops of Campania to the Roman Pontiff... 355.

Encyclical Letter of His Holiness Pope Leo XIII to the Ordinaries of the federated states of Canada concerning schools for boys. 356.

Acts, Volume XXX, page CCCLX.

By his own motion, His Holiness Pope Leo XIII granted to the Benedictine Order the administration of the Athanasian College in Rome. 362.

Response of His Holiness Pope Leo XIII to His Eminence the Dean of the Holy College, on the eve of the Nativity of Christ, offering a favorable omen in the name of the Holy College. 537.

Response of His Holiness Pope Leo XIII to His Eminence the Dean of the Holy College, offering a favorable omen on the day of March 2, 1898; by which was celebrated the fulfillment of his 88th year and his 20th coronation. 541.

Letter of His Holiness Pope Leo XIII to the Archbishop of Milan, Andrea Ferrari, Cardinal of the Holy Roman Church, on the occasion when the city of Milan, and other parts of Italy, were disturbed by rebellious men... 705.

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[*Latin ed. p. 754*]

754 SUMMA ACTORUM: He is removed from office by name and the augmentations concerning the two chapters of the Sacred General Council... 11 chapels founded in the year 1813. 238 Florentina: concerning marriages; a dispensation for a marriage is resolved; it is declared that the marriage is null; a dispensation for a marriage is granted; the marriage is declared valid, although not consummated... 244 Melevitana: concerning legacies for Masses; concerning a dispensation for a marriage; it is declared that nothing is to be innovated regarding the total amount to be paid for the legacies for Masses, even if the attached conditions should have changed. 25 Abellinen, Engolismen: concerning marriages; it is responded that it does not appear that the marriage is null, nor that it has not been consummated. 29 Bellunen and Feltren: concerning the celebration of Masses; a dispensation for a marriage is granted; a dispensation is granted from the obligation of Masses for those who are not bound, but for others, the

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obligation of one Mass is postponed. 97 Melevitana: concerning a dispensation for a marriage; a dispensation is granted concerning a marriage that is valid and not consummated. 417 Parisien: concerning a dispensation for a marriage; it is denied, because the consummation has not been fully accomplished. 102 Munkacsen: concerning a dispensation for a marriage; a cure is granted, considering the particular circumstances of the case. 423 Pictavien and Nanneten: concerning a dispensation for a marriage; a dispensation is denied concerning the dispositions, even though the consummation cannot be proven by the integrity of the woman, because she was interrupted by others. 135 Utinen: concerning a marriage; a dispensation is denied concerning a presumed marriage that is valid and not consummated. 584 Colonien: concerning the celebration of Masses; it is asked whether certain changes introduced over time, regarding the execution of the pious work, can be ratified. 145 Carcassonen: concerning a dispensation for a marriage; a translation of the pension made by the priest is not upheld, because it was made by the last will and testament. 600 Nullius ss. Trinitatis Caven.: concerning the conferring of the sacrament of Confirmation; it is not upheld, with the favor of this abbot, the right of confirmation. 233 Oxomen: concerning the foundation of chapels; the question is raised about a reduction.

[*Latin ed. p. 755*]

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the nullity of sentences; or concerning restitution; restitution is denied. 267 Fiesole, concerning restitution; the question is raised concerning a benefit for which a large sum of money had been paid to the treasury. . 554 Rome, concerning expenses; it is answered that a concord should be reached in the matter of expenses incurred by two fathers of the same religious family. 556 By a Motu Proprio of the Most Holy Pope Leo XIII concerning matters to be addressed by the Holy Congregation for Indulgences. 563 Diocese of L. Concerning prescription in ecclesiastical criminal cases; it is established in which cases prescription shall be granted. 677 Aquen or Lucion, concerning compensation; the judgment is confirmed in which a Religious, dismissed from the Order of the Premonstratensians, is denied compensation for damages. 727 Albenga, concerning rights; the question is raised concerning parochial rights between a parish priest and a religious chaplain. 731 FROM THE HOLY CONGREGATION FOR INDULGENCES: A rescript is granted granting indulgences to all tertiaries who...

[*Latin ed. p. 756*]

756 The acts pertaining to the completion of the novitiate year have rendered the profession invalid, thus far, in 31 places in Mediolanum. Doubts concerning the faculty of granting the apostolic blessing by priests returning from a pilgrimage to Roma are raised. A response is appended to the Indulgence in honor of Saint Francis of Solanus, granting 300 days of indulgence. A decree is issued granting to the faithful, even those not enrolled in the sodality of the Most Sacred Heart of Jesus, the same indulgence granted to members of that same confraternity, provided that, etc. 254 Decree of the City and the World; concerning the erection and aggregation of pious unions or societies, etc. 276 Decree of the City and the World; concerning the affiliation of the deceased faithful to confraternities, pious unions, and other charitable works. 278 Decree of Squillacensis; concerning the indulgence attached to the privileged altar. 278 Various doubts concerning scapulars. 748 FROM THE OFFICES OF THE VICARIATE OF THE CITY: Doubts and resolutions concerning the pious association of the Holy Family. 31 FROM THE HOLY CONGREGATION OF RITES: Concerning the beatification of the venerable Servant of God, Sister Mary Magdalene, in the world Julia, Francisca, Catherine Postel, in Constantinopolis and Avranches. 113 Basel, concerning the beatification of the venerable Servant of God, Mary Francisca Salesia Chappuis. 116 Concerning the custom of reciting the Little Office of the Blessed Virgin Mary in the vernacular language. 118 Baren, concerning the precedence of the Tertiaries over confraternities. 119 Roma: It is granted to the Ordinaries of the places the faculty of transferring the external solemnity of the Most Sacred Heart of Jesus, with the privilege of celebrating the proper Mass, under certain limitations. 152 A doubt is raised: whether members should proceed entirely with their heads uncovered in processions with

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[*Latin ed. p. 757*]

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to the Regular clergy of both sexes, in the city, or outside, who use the Calendar of the Clergy of Rome, to observe the feast of St. Innocent on the 22nd of June. 694 Other eulogies to be inserted in the Roman Martyrology, 694 Neoporten and Meneven, regarding doubts concerning the ordering of the office, according to the decree which prescribes that Mass must be celebrated according to the Calendar of the Church in which it is celebrated, 695 Neapolitana, concerning the beatification and canonization of the venerable Servant of God, Sister Mary Julian of the Most Holy Sacrament, of the Third Order of the Servants of B. Mary Virgin of the Seven Sorrows, mistress of the monastery.

[*Latin ed. p. 758*]

SUMMARY OF ACTS 758 of the Mantellate Sisters of Saint Augustine 736 Melitene, concerning the beatification and canonization of the Venerable Servant of God, Mary Adeodata Pisani, a professed nun of the Order of Saint Benedict in the monastery of Saint Peter 739 Nullius or Subiaco, concerning the beatification and canonization of the Venerable Servant of God, Father Francis of Ghisone, a professed cleric of the Order of Friars Minor of Saint Francis 741 Brixia, concerning the beatification and canonization of the Venerable Servant of God, Mary Magdalene Martinengo of Barco, a professed Capuchin nun in the monastery of Saint Mary of the Snows in Brixia 744 Piacenza, regarding doubts concerning vernacular hymns, which are customarily sung with the organ during the Mass. 746 Quebec, regarding the first doubt concerning the titular feast. 747 FROM THE HOLY CONGREGATION OF THE ROMAN INQUISITION: Bishops who possess the faculty of dispensing from the defect of age, can dispense to secular and regular clerics. 122 An excommunication issued by the Holy Roman Congregations is not reserved to the Roman Pontiff, as is one issued by Him concerning those who communicate in a criminal offense. 123 A confessor can absolve a penitent from reserved matters, to whom it would be necessary to wait for the required time to request the dispensation. 123 Doubt: It is asked whether the unction must be repeated in priests who have been ordained, by the Bishop using the oil of Holy Chrism, instead of the oil of the catechumens. 157 The diaconate must be repeated in the case of a deacon to whom the Bishop administering the sacrament approached, but did not touch the head of the one being ordained. 157 Instruction regarding the diligence to be exercised in causes of solicitation. 249 Doubts regarding the use of the faculties with which a Bishop possesses, concerning dispensations of the internal and external forum, as well as impediments removing and impeding. 284 Doubt regarding the ordination of a priest due to the lack of imposition of hands. 285 Doubt regarding the ordination of a priest, in which it is believed that the paten was not touched. 286 Faithful of the Hispanic tongue, traveling outside of Spain, cannot eat meat, even if they enjoy the Lenten indulgence and the bull of the cross. 286

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Bishops of the United States of America can grant dispensation in cases of disparity of cult, except for the Jewish cult. 382 Doubt as to whether a baptism is validly conferred upon dying adults, lacking faith and sorrow. 475 Doubt as to whether the ordination of a deacon is valid, if the Bishop ordaining did not physically touch the head of the one being ordained.

[*Latin ed. p. 759*]

759 SUMMA ACTORUM: A question arises concerning whether an ordination to the priesthood, received through the imposition of hands, both initially and subsequently, is valid when no intention is present, and then a positive intention is formed.

477 A question regarding the effects of irregularity, arising from heresy, concerning religious professions and prelacies.

561 A decree establishing that habitually granted faculties do not perish with the death of Ordinaries to whom they were granted.

627 A request concerning marriages entered into by impious men, who are said to be free-thinkers.

628 What is to be understood by the phrase "in the manner of drinking" in dispensations concerning natural fasts.

630 Concerning the burial to be given to amputated human limbs.

630 Whether bishops, who are empowered to dispense from abstinence on days of great solemnity, can also do so concerning the days of Friday and the Sabbath of Advent.

631 Concerning the conferring of baptism upon adults at the point of death.

699 Concerning the use of spiritualism.

701 Any faculties whatsoever are granted to Ordinaries of places.

702 A question concerning the acceleration of childbirth.

703 A question concerning whether a slight interruption invalidates an Ordination.

750 A question concerning the baptism of a woman who is an unbeliever, married to a heretical man.

751 EX S. CONG. NEGOTIORUM EXTRAORDINARIORUM: Letters from Cardinal M. Rampolla to the Archbishop of Vrhbohnen, concerning the dismemberment of a parish.

128 An authentic declaration concerning the meaning of the denomination "Indians and Negroes" in apostolic letters "Trans oceanum" of April 18, 1897, concerning the privileges of Latin America.

EX S. G. DE PROPAGANDA FIDE: Letters from the Prefect concerning a question regarding the admission of an infidel minister through a procurator in the celebration of a marriage between a Catholic and a Muslim.

158 Letters from the Apostolic Delegate of the United States concerning

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questions of parochiality in quasi-parishes, established for people of different languages.

256 A new Apostolic Prefecture is established in Rhodes.

287 The faculty to celebrate Mass of the Conception of the Immaculate Virgin on a Saturday is granted to the Franciscan Third Order.

288 For Eastern Christians in North America.

635 EX S. C. INDICIS: A decree prohibiting certain books.

159 A decree concerning the prohibition of books.

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[*Latin ed. p. 761*]

761 COMMENTARY ON THE CONSTITUTION OF OFFICES, INDEX AND FUNCTIONS: The number indicates the page where the Commentaries on each Chapter of the General Decrees begin.

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ERRATA CORRIGE: Page 37, line 14: ″Commentares″ should be ″164.″ ″1.″ should be ″Iudicium″ ″167.″ note 3. ″4.″ should be ″Laudibus″ ″173.″ ″4.″ should be ″Suppositas″ ″215.″ ″19.″ should be ″illos″ ″223.″ ″9.″ should be ″e x″ ″328.″ ″23″ should be ″prefecto″ ″342.″ ″16.″ should be ″concessam″

″Commentariis Indicium Laudibus Supposititias illos de profecto concessam″ ″490.″ number 72. corresponds to ″71*″: let the readers take note of this and adjust the subsequent numbers accordingly. ″279.″ ″2.″ After the word ″applicetur,″ add ″quampro defunctis, si probis.″ ″S. Sacrificium

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applicetur.”

IMPRIMATUR: Father Albert Lepidi, Order of Preachers, S.P.A., Master.

IMPRIMATUR: Francis Cassetta, Patriarch of Antioch, Vice-Chancellor.

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